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*Hon. J. B. Loring
with the respectful of W. M. Gehee*

LIFE AND CHARACTER

OF THE

HON. WILLIAM A. GRAHAM.

A MEMORIAL ORATION,

BY

MONTFORD McGEHEE, ESQ.,

DELIVERED

BEFORE THE BENCH AND BAR OF THE SUPREME COURT, IN
THE HALL OF THE HOUSE OF REPRESENTATIVES, IN
RALEIGH, JUNE 8, 1876.

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From Whitman

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ORATION.

GENTLEMEN OF THE JUDICIARY AND BAR:

When I learned that, under a resolution adopted by the Bench and Bar of the Supreme Court, I had been appointed to deliver an "Address on the Life and Character of the Hon. William A. Graham," I stayed not to question my own sufficiency for the duty to which you assigned me. Coming from such a source, the appointment had to me somewhat the force of a command. No command, however, could have been more grateful, since it had for its object to do honor to one for whom I have ever cherished a veneration and affection which hardly knew a limit.

One word will be permitted me as to the manner in which this duty has been performed. It will be seen that my sole object has been to present a faithful sketch of the life of this illustrious man, together with such reflections as naturally arose out of a study of his career—such as were suggested by a consideration of his labors, his motives and his aims.

I have adopted this course from a profound conviction that the truest narrative of his life would be his best monument; that the highest eulogy that could be pronounced upon him would be to present him just as he was.

In the execution of this design I have been led to touch, at one point, upon that period of our own history when the existing political parties of the day had their origin, and when political feeling was very much embittered; at another, to a somewhat extended examination of a statement contained in a recent address published in *Our Living and Our Dead*.

In the former will be seen, I trust, no trace of partisan feeling; in the latter no purpose other than to elucidate the truth of history.

William Alexander Graham was born on the 5th day of September, 1804, in the county of Lincoln. He was fortunate alike in the race from which he sprang and in his own ancestry. The race was that which, by a change of residence from Scotland to Ireland, anterior to its immigration to this country, acquired, as it were, a double nationality and name, to-wit: Scotch-Irish. It was a people of marked characteristics. By their residence among the Irish they seemed to have added somewhat of the fervor of mind and feeling which distinguishes that race, to the clear intelligence, strong will and shrewd sagacity of their mother country. They were noted for their unconquerable attachment to the great principles of liberty. They speculated with the coolness and sagacity of the Scotchman upon the functions and limitations of government, and, like the Irishman, they kindled into flame upon any invasion of their rights. They were Presbyterian in their tenets, and devoted to that form of worship. Wherever they went the minister went with them; amid all the chances and changes of life he was there to instruct, to encourage and console. The polity of that church demanded a learned ministry, and the minister was almost always a secular as well as sacred teacher; hence, wherever they established themselves, liberal education was fostered and classical learning taught. In Mecklenburg and the neighboring counties they earnestly sought, while North Carolina was yet a colony, to found a college. Twice was a charter granted by the Legislature, and twice disallowed by the King. Charters were granted to institutions, the instructors of which were members of the Church of England; they were denied where the instructors were of the Presbyterian faith. "The faith of Calvin," says Bancroft, "has ever been feared as the creed of Republicanism."

Early in our colonial history they signalized their zeal for civil and political liberty. The political disturbances anterior to the Revolution, which issued in the Mecklenburg Declaration of Independence, were the outgrowth of this spirit. This spirit was not the offspring of a vague enthusiasm. No people ever had clearer conceptions of the objects they sought to compass. "The genuine sense of America at that moment," said the elder Adams, speaking of the Mecklenburg Declaration, "was never so well expressed before nor since."

The ancestry of Mr. Graham were deeply imbued with the spirit of this people. His maternal grandfather, Major John Davidson, was one of the signers of the Mecklenburg Declaration, and acted a conspicuous part in the Revolution. The name of his father, General Joseph Graham, is one of the best known in our Revolutionary annals. The biographical sketch incorporated into Wheeler's History is a brief but noble record. He entered the army at nineteen years of age. At the end of two years of arduous and responsible service he was stricken down by a severe and lingering illness, but returning health found him again in the field. When the war invaded his own section, and the army under General Greene withdrew towards Virginia, to him was assigned the command of those troops which sustained the rear-guard under General Davie. For many miles he was confronted with the troops of Tarleton, the best body of cavalry in the British service. The obstinate resistance which he opposed to their intrepid advance had nearly closed his career. After many gallant but ineffectual attempts to drive back the enemy, he at length fell, literally covered with wounds. When his wounds were healed he again took the field. The service which now fell to his lot was one of peculiar privation, suffering and sacrifice: commissary stores, his command often had none; nay, were sometimes under the necessity of supplying their own horses and purchasing their own equipments. But his patriotism was entire and

uncalculating; he recked not of means, health or life itself in the cause to which he had devoted himself. Suffice it that he continued in the field as long as there was in the country an enemy under arms; and though he had, when peace was declared, but entered on the threshold of manhood, he had commanded in fifteen different engagements.

In civil life he was scarcely less distinguished; the many important positions filled by him afford the highest testimony to his capacity and character. It is to be regretted that we have no extended biography of one who so well illustrated the character of the soldier and the citizen.

His mother was distinguished for her personal beauty—distinguished as well for her sense, piety and many amiable virtues. But death deprived him of her fostering care before he had attained his fourth year, and he was then consigned to the care of an elder sister. The tender affection and respect with which he always referred to this sister, attests how fully she discharged a mother's duty.

He received the rudiments of his education in the common schools of the country. He commenced his classical education in the Academy at Statesville, then under the care of the Rev. Dr. Muchat, a scholar of good repute. Mr. Graham verified the apparent paradox of Wordsworth,

“The child is father of the man.”

He was noted, from his earliest years, for his industry, his thirst for knowledge and his aptitude to learn. One who knew him well* testifies that from his childhood he was no less remarkable for his high sense of truth and honor than for his exemption from the levities and vices common to youth. At this Academy he applied himself to his studies with the most exemplary diligence. A classmate† at that time says of him, “he was the only boy I ever knew who

* Rev. R. H. Morrison. † Judge Brevard.

would spend his Saturdays in reviewing the studies of the week."

An incident which occurred about this time affords a striking proof of his early force of character. Gen. Graham was a pioneer in a branch of industry, yet but little developed in this State—the manufacture of iron. Upon his removal to Lincoln he established a furnace and forge, which, at the time now spoken of, had become quite extensive. From some cause the works were left without a superintendent. The General installed his son William, though then but a boy, and wholly without experience, at the head of the establishment; and the energy and judgment with which he conducted it, obtained his father's entire approval.

He was next sent to the Academy at Hillsboro. This institution, subsequently under Mr. Bingham, acquired a renown in the South and Southwest, not inferior to the renown of Rugby, in England, under Dr. Arnold. It was then under the direction of Mr. Rodgers. He had been educated for the Catholic Priesthood, and for accurate scholarship and capacity as a teacher, had few superiors. Here Mr. Graham was prepared for College.

From this Academy he went to the University of the State, where he was matriculated in the summer of 1820. His course throughout his college life was admirable in every way. He appreciated the scheme of study there established, not only as the best discipline of the intellect, but as the best foundation for knowledge in its widest sense. He mastered his lessons so perfectly, that each lesson became a permanent addition to his stock of knowledge. The professors rarely failed to testify by a smile, or some other token, their approval of his proficiency. On one occasion, a professor,† who has achieved a world-wide reputation in the field of science, remarked to one of his classmates‡ that his

†Professor Olmstead; ‡John W. Norwood, Esq.

lecture on Chemistry came back as perfectly from Mr. Graham as he had uttered it on the previous day.

Some thirty years after, the same professor in a letter to Mr. Graham, (then Secretary of the Navy,) uses this language: "It has often been a source of pleasing reflection to me, that I was permitted to bear some part in fitting you, in early life, for that elevated post of honor and usefulness to which Providence has conducted you."

His high sense of duty was manifested in his conscientious deportment under the peculiar form of government to which he was then subject. His observance of every law and usage of the College was punctilious; while, to the faculty, he was ever scrupulously and conspicuously respectful.

His extraordinary proficiency was purchased by no laborious drudgery. The secret of it was to be found in the precept which he acted upon, through life: "Whatsoever thy hand findeth to do, do it with thy might." His powers of concentration were great, his perceptions quick, his memory powerful, prompt and assiduously improved. By the joint force of such faculties, he could accomplish much in little time. Hence, notwithstanding his exemplary attention to his College studies, he devoted much time to general reading. It was at this time, no doubt, that he laid up much of that large and varied stock of information upon which he drew at pleasure, in after life.

Intent upon availing himself to the full, of every advantage afforded him, he applied himself assiduously to the duties of the Literary Society of which he was a member. He participated regularly in the debates and other exercises of that body. For all such he prepared himself with care; and it is asserted by the same authority,|| to which I have already referred—a most competent judge—that his compositions were of such excellence that, in a literary point of

[Mr. Norwood.

view, they would have challenged comparison with anything done by him in after life.

His engaging manners brought him into pleasant relations with all his fellow students. He lived with them upon terms of the frankest and most familiar intercourse. In their most athletic sports he never participated, but he was a pleased spectator, and evinced by his manner a hearty sympathy with their enjoyments. His favorite exercise was walking, and those who knew him well will recollect that this continued to be his favorite recreation while health was spared him. With his friends and chosen companions he was cordial and easy, and always the life of the circle when met together.

The class of which he was a member was graduated in 1824. It was the largest up to that time; and, for capacity and proficiency, esteemed the best. It was declared by Professors Olmstead and Mitchell, that Yale might well have been proud of such a class. It embraced many who afterward won high distinction in political and professional life. One, who divided the highest honors of the class with Mr. Graham, attained the highest judicial station in the State—a seat upon the Supreme Court bench.†

No one could have availed himself to a greater extent than Mr. Graham did, of the opportunities presented in his collegiate career. “His college life, in all its duties and obligations,” says the gentleman before quoted,† “was an epitome of his career upon the stage of the world.” He adds that on the day when he received his diploma, he could, with his usual habits of study, have filled any chair with honor to himself and acceptance to his class. Such is the emphatic testimony of one who himself graduated with high distinction in the same class. Might we not subjoin, building upon the above remark, that his career in after life was,

* Hon. M. E. Manly. † Mr. Norwood.

in great part, the logical result of the discipline and training to which he submitted himself, so conscientiously, in his college life?

After graduation he made an excursion to some of the Western States, which occupied a few months. While at Lexington, he heard Mr. Crittenden address the jury in a great slander or libel case. Of all intellectual displays there are none so dazzling as those of the great orator or advocate; there are none the triumphs of which are so palpable and so intoxicating; none so calculated to excite the enthusiasm of a young and ingenuous mind. The speech, which was worthy of the great advocate's fame, made a profound impression upon Mr. Graham. It may have had some influence in determining his choice of a profession, or in fixing it, if already made. We shall see in the sequel that to the youth who, unknown to him, listened with such admiration to his speech that day, Mr. Crittenden many years after appealed for the use of his name, and the weight of his influence, at a crisis of great peril to their common country. From this tour he returned in 1824, and entered upon the study of the law in the office of Judge Ruffin.

The opinion of Judge Ruffin, as to the course proper to be pursued with a student of the law, was somewhat peculiar. He held that he should have little assistance beyond that of having his course of study prescribed. He must, as it were, scale the height alone—by his own strength and courage; availing himself of a guide only at points otherwise inaccessible. His brother, the Hon. James Graham, in a letter written at this period, made mention of this opinion, and urged him to adopt the expedient resorted to by himself: "When he would not examine me, I took," said he, "the liberty of questioning him very frequently, and by drawing him into conversation on legal subjects, my own ideas were rendered more clear, correct and lasting." It is not likely that counsel so judicious, and from such a source, was neglected.

He obtained his County Court license in the summer of 1826. At August term of the Court he appeared at the Orange Bar. The rule then required, between the admission to practice in the County Court and the admission to practice in the Superior Court a novitiate of one year. This period he spent in Hillsboro, that he might continue to profit by the instruction of his learned preceptor. At the end of the year he received his Superior Court license. It was now a question where he should establish himself for the practice of his profession. The counties of Mecklenburg, Cabarrus and Lincoln were filled with his blood relations, connections and friends. They were among the most distinguished for their wealth, intelligence and Revolutionary fame. Their combined influence would give him command of all the important business of those counties, and place him at the outset in the position of a leader of the Bar. The prospect in Orange and the adjoining counties was widely different. In these latter counties he would have no adventitious advantages. The business of these counties, moreover, was engrossed by an able and a numerous Bar. At the first court which he attended after he obtained his Superior Court license they mustered to the number of twenty-six. A large proportion of these were young men recently admitted to practice; but after deducting these, and many more of longer standing and respectable position, there still remained a Bar which for learning, abilities and eloquence was never surpassed in this State. Of resident lawyers there were Thomas Ruffin, Archibald D. Murphy, Willie P. Mangum, Francis L. Hawkes and Frederick Nash; of lawyers attending the court, from other counties, there were George E. Badger, William H. Haywood and Bartlett Yancey. What recollections of renown connected with the forum, the Senate and the church flood the mind as we recall these names! Fain would I pause to contemplate the career of these illustrious men, by which the character of North Carolina was so much elevated in the consideration of the world,

and so much of honor brought to the State. But other subjects press upon me—subjects of more immediate interest.

Notwithstanding this formidable competition—a competition which might well dismay one at the outset of professional life—Mr. Graham resolved to fix his residence at Hillsboro. Two reasons were assigned by him for this conclusion: first, an unwillingness to relinquish the foot-hold he had gained in the county courts of Orange, Granville and Guilford; second, a reluctance to sever the associations formed with his professional brethren at those courts. Another reason, quite as potent, probably, was a well-grounded confidence in his own abilities, and in his knowledge of his profession. Against such men he entered the lists, and against such he had to contend; not indeed all at the same time, but all within a period of two years. It may be mentioned as an instance of the vicissitudes of human life, that five years from the August of that year—1827—not one of those illustrious men remained at that Bar.

His first case of importance in the Superior Court was one which, from peculiar causes, excited great local interest. It involved an intricate question of title to land. On the day of trial, the court room was crowded and the Bar fully occupied by lawyers—many of them men of the highest professional eminence. When he came to address the jury, he spoke with modesty, but with ease and self-possession. His preparation of the case had been thorough, and the argument which he delivered is described as admirable, both as to matter and manner. When he closed, the Hon. William H. Haywood, who had then risen to a high position at the Bar, turned to a distinguished gentleman, still living, of the same profession, and inquired who had prepared the argument which Mr. Graham had so handsomely delivered. The answer was, "It is all his own;" to which Mr. Haywood replied with the observation, "William Gaston could have done it no better."

Mr. Graham knew none of that weary probation which

has been the lot of so many able men. His argument in the case just mentioned at once gave him a position of prominence. It was not long before he attained a place in the front rank of his profession. Here, with the large stores of professional knowledge which he had laid up, it was easy to sustain himself. His high mental qualifications, his habits of study, his perseverance, his unalterable faith in his cause, brought to him a constantly increasing business, and a constantly widening reputation. He was early, for so young a man, retained in the most important causes in the courts in which he practiced, and his associate counsel generally gave him the leading position in the trial.

For forty years and more he maintained his high pre-eminence in his profession. His name appears in the Reports, in nearly all the appeals from his own circuit, and in many of the important cases from the other circuits of the State. It would be impossible, in the compass of this Address, to present any view, however brief, of the nature and variety of the causes in which he was employed. They will be found to embrace nearly every principle known to the common law and to equity jurisprudence, applicable under our system of government and to our changed condition of society. To his clear, penetrating, masculine intellect, both systems were alike adapted; but the system of Equity seemed to me, to offer to him the most congenial field. Thoroughly versed in the learning of this branch of jurisprudence, his fine, natural sense of right had led him to the study of the best ethical writers. He had thus rendered still more subtle his native perception of those more recondite principles of justice which it is the object of that science to administer. And though the system of equity has for a long time been little less circumscribed by known rules and precedents than the system of law, yet his mind found a grateful occupation in tracing those rules and precedents back to the great principles from which they were deduced, and vindicating their authority upon the ground of reason.

Not, however, in courts of Equity did he establish his great reputation in his profession. The fame acquired in this branch of practice is limited almost entirely to the Bench and Bar. It admits of none of those intellectual displays for which the trial by jury is so well adapted. It is to the Law side of the court that we must repair, if we would see him in that sphere, in which, professionally, he was best known, and where his most signal triumphs were won. But of his distinguishing characteristics as a lawyer, I propose, hereafter, to speak.

In 1833 he was elected a member of the General Assembly from the town of Hillsboro. His first appearance on the floor has an interest from the relations subsequently existing between him and the distinguished man to whom the motion submitted by him had reference. He rose to move the sending of a message to the Senate to proceed to the election of a Governor of the State, and to put in nomination Gov. Swain. A day or two after, he had the satisfaction of reporting that that gentleman—who was ever afterward united to him in the closest bonds of friendship—had received a majority of votes, and of being named as first on the committee to inform him of his election. He took, from the beginning, an active part in the business of the House relating to Banks, Law Amendments and Education. A few days after the session commenced, he was appointed chairman of a special committee, and submitted an adverse report upon the petition of certain citizens of France, praying that they might hold and transfer real estate. Near the end of the session he was the chairman of another special committee, to which was referred a question then much discussed. The question was, whether a person holding an office of profit or trust under the State government could, during his term, hold a like office under the government of the United States. The question arose under the Constitution of 1776, and is of no practical value now. But it was a question of interest at the time, and possesses an interest for us, as the

first work of any kind done by Mr. Graham which has come down to us. He disposed of the question in a report clear and well reasoned, and marked with great precision of language.

He was a member from the same town in 1834, during which session he appears to have discharged the duties of the chairman of the committee of which he was a member, the Committee on the Judiciary.

I record an incident which attests the high consideration which he had already acquired in the country, and the importance attached to his opinion. Judge Gaston had been elected in 1833 to a seat on the Supreme Court Bench by a majority of two-thirds of the General Assembly. He had been brought up in the Roman Catholic faith—the faith of his fathers—the faith in which he died. The thirty-second section of the old constitution declared incapable of holding office all those who “deny the truth of the Protestant religion.” Some dissatisfaction had been expressed at his accepting a judicial office under a constitution containing this clause, which in the opinion of some, excluded him. For some time he did not deem it necessary to advert to the matter. In 1834—Nov. 12—he addressed a letter to Mr. Graham, enclosing a written paper, in which he stated succinctly, but with great clearness and irresistible force, the reasoning by which his acceptance had been determined. In the conclusion of his letter he referred it to Mr. Graham’s judgment, to determine what degree of publicity should be given to the paper. Whether it was ever published we do not know ; but when we consider Judge Gaston’s high station and great name in the country, and that the purity of that name was in a measure at stake, the incident must be regarded as a singular tribute to the character which Mr. Graham had thus early established. It is well known how Judge Gaston availed himself of his place in the convention of 1835 to set forth to the world the reasons by which his decision had been influenced—reasons so cogent and conclu-

sive as to satisfy every mind. It is known, too, that the object of the great speech delivered by him then—an object happily accomplished—was to bring about such a modification of the obnoxious clause as to deprive it of all sectarian intolerance.

Mr. Graham was again a member from Hillsboro in the year 1835. In the organization of the committees the post of Chairman of the Committee on the Judiciary was assigned to him, and the journals bear testimony to the diligence with which its duties were discharged. It was through him, in his capacity of chairman, that the various reports of the commissioners to revise the Statute Laws of the State—the Revised Code being then in progress—were submitted to the House.

From the abilities displayed and the high position held by him in the Legislature, we should naturally expect to find him in the Constitutional Convention of 1835. It has been well said that the county of Orange has been to North Carolina, what Virginia has been to the Union, the mother of statesmen†. On this occasion, by one of those caprices which sometimes seize upon communities as well as individuals, the noble old county seemed to care little for her ancient renown. There seems to have been no action by the county to secure delegates worthy of her former reputation. We learn from the remarks of one of the delegates‡ in the Convention, that there were ten candidates in the field, and that the successful candidates were returned by so small a vote as to call forth a taunt from a member of the Convention. In such a contest Mr. Graham had no desire to enter the field; indeed, whenever he offered himself for the suffrages of his countrymen, it was as the chosen champion of the principles of a great party.

He again represented the county of Orange in the Legislatures of 1838 and 1840, in both of which he was elected

†Maj. Gales' sketch of Gov. Graham, in "Illustrated Age." ‡Dr. Smith, "Debates," p. 307.

speaker. This withdrew him from the arena of debate, and we learn little more of him from the journals of those sessions than the uniform punctuality and universal acceptability with which he discharged the duties of that high trust.

We take leave for the present of Mr. Graham's legislative career. His talents were soon to be exerted on national subjects, and on a grander stage. It needs but a cursory glance over the journals during the time he was a member to observe the extent of his labors. The bills introduced, and the reports submitted by him embrace every great interest of the State. They embrace the subjects of banks, finance, education, internal improvement, and measures relating to amendment and repeal of statutes. Here will be seen the causes of his pre-eminence among the statesmen of North Carolina. That pre-eminence was the fruit of a careful study of the State in all her resources and in all her interests.

A revolution in the politics of the State brought about a vacancy, in 1840, in the representation from North Carolina in the Senate of the United States. Mr. Strange, under instructions, had resigned his seat : the term of the other Senator was near its end. There were thus two terms to be filled by the Legislature of 1841. Mr. Mangum was elected for the full term, Mr. Graham for the unexpired term. This election was considered by Mr. Graham as the most emphatic testimonial of the confidence and favor of the State which he received during his life. Mr. Mangum and he were residents of the same county, and of the many able men who might justly advance claims to the other seat Mr. Graham was the youngest. Certainly an election under such circumstances constituted a tribute of peculiar significance and value.

He was among the youngest members of the Senate when he took his seat ; but he soon commanded the esteem and respect of the entire body. That, it has been truly said, was pre-eminently the age of great men in American parliamen-

tary history, and of such he was regarded as the worthy compeer. "He never rose to speak," says a distinguished gentleman,* who was himself a member of Congress at that time, "that he did not receive the most respectful attention. When the Senate went into Committee of the Whole he was usually called upon to preside. Reports from him as chairman of a committee almost invariably secured the favorable consideration of the Senate." From the same authority we learn that the relations existing between him and Mr. Clay were of the most kindly and intimate character, and that Mr. Clay "regarded him as a most superior man, socially and intellectually."

The period during which Mr. Graham was in the Senate was one of the most stormy in our political annals. The Whig party had just achieved a great victory, and Harrison and Tyler had been elected by an immense majority. That party reckoned confidently, that it would now be able to carry out those great principles of government, for which it had so long contended, and which had been so signally approved in the recent election. In the midst of these patriotic anticipations, General Harrison died, and Mr. Tyler succeeded to the Presidential chair. Mr. Tyler had adopted the platform of the Whig party, and in his address, upon assuming the duties of his high office, he did not intimate the least change of policy from that which his predecessor had announced in his inaugural. He had, moreover, retained the same constitutional advisers. The statesmen of the Whig party now set to work to redeem the pledges which had been made to the country. A great financial measure was passed; this was vetoed by the President. A second measure of the same kind, framed in conformity to the views indicated in his veto message, was passed, which was vetoed in like manner. A tariff bill was passed, but this shared the same fate. Efforts were made to pass these bills over the

* Hon. Kenneth Rayner.

President's veto, but in every instance the veto was sustained by the opposite party. The result of these repeated disappointments was, that all hope of united and efficient action in carrying out the great principles of the Whig party was finally abandoned.

The administration of Mr. Van Buren had largely exceeded the revenues. Provision for this deficiency had to be made by the incoming administration. To meet an emergency so pressing, a bill was introduced, known as the "Loan Bill." It was strongly opposed, among others, by Mr. Calhoun, in a speech of characteristic force and compass. So far as the Whigs were concerned it was an appeal by the administration for aid, to a party which it had betrayed. Mr. Graham only recollected that the good of the country was involved, and gave it his support. "I will not," said he, "stop the action of the government by denying it the means of going on, no matter who may be in power." The speech which he delivered on this bill was eminently able and statesmanlike. He demonstrated the necessity of the measure; he traced out the cause of the deficiency, and pointed out the remedy. The subject has little interest to the general reader at this day, yet in that speech there are passages of such profound reflection and philosophic scope as will give it a value to the political student at all times. Of the three propositions which he laid down as applicable to the emergency then existing, the two latter comprehend the highest wisdom of our own day: "Reduce the expenditures to the lowest point consistent with an efficient public service;" "Levy such duties as are necessary for an economical administration of the government, and no more."

When the Apportionment Bill in 1842 was under consideration, very strong opposition, headed by Mr. Buchanan of Pennsylvania, and Mr. Wright, of New York, was made to the Districting clause. Mr. Graham, on June the 11th, addressed the Senate in support of the clause. In a clear, condensed, weighty and conclusive argument, he demonstrated

that the District system of electing Representatives to Congress, was in conformity to the true theory of Representative Government, and was the one contemplated and expected by the framers of the government; that it was sanctioned by usage almost unanimous in the old States, and by the usage of two-thirds of the new; that the general ticket system was fraught with evils, public and private; nay, with dangers to the Union. There was a passage in that debate which so forcibly illustrates the high moral plane upon which he discussed public affairs, that I cannot pass it by. It was objected by Mr. Woodbury, of New Hampshire, that if the Act were passed by Congress, it had no means of enforcing it. He wished to know whether an armed force or a writ of mandamus would be sent to the State Legislatures to compel them to lay off the Districts. In reply Mr. Graham showed that if, notwithstanding the law, a State should return members according to general ticket, the House of Representatives, as judge of the election of its members, could pronounce such election a nullity. "But the duties of the States under our Constitution," said he, "are not to be determined by their liability to punishment, but by the covenants into which they entered by that instrument. It is faith, honor, conscience, and not the 'hang-man's whip,' on which, at last rest the blessings of this noblest human institution which has ever been devised for the security, the welfare and happiness of man." In this exclamation, he unconsciously announced those great principles by which his own conduct through life was regulated, and to whose slightest behest he ever yielded an unhesitating obedience.

A short time after—July 25, 1842—he received the following letter from Chancellor Kent: "I thank you for your speech on the Districting clause of the Apportionment Bill. I have read it carefully, and I deem it in every respect logical, conclusive, and a vindication of the power assumed by the Bill, in language clear and specific, tempered with due

moderation and firmness. The District System is essential to check and control the cunning machinery of Faction."

After the expiration of his term—March 3, 1843—Mr. Graham resumed the practice of his profession.

In 1844 he was nominated by the Whig party of North Carolina for the office of Governor. He had not sought the nomination; nay, would have declined it if he could have done so consistently with his high conceptions of the duty of a citizen. In 1836 he had married the daughter of the late John Washington, Esq., of Newbern, a lady of rare beauty and accomplishments—a union which brought to him as much of happiness as it is the lot of man to know. From this union a young and growing family was gathering around him. His patrimony had not been large, and the requirements of his family demanded his constant professional exertions. He was now at the summit of his profession, and his emoluments would be limited only by the nature of the business in an agricultural State, where commerce existed to only a small extent, and manufactures were in their infancy. His attention had been much withdrawn from his profession during his Senatorial career, and besides the expense and loss of time in a State canvass, he would, if elected, be entirely precluded from the exercise of his profession during his term of office. The salary of the office was small, and a residence in the capital as Chief Magistrate would render necessary an increased scale of expense. On the other hand, were considerations of great weight. Letters came to him from many gentlemen of high standing in various parts of the State, pressing his acceptance by every consideration that could be addressed to an elevated mind. Moreover he was not unmindful of the honors which had been conferred upon him, and not ungrateful. He held, too, that the circumstances must be very exceptional, which could justify a citizen in withholding his services when called to a public station by the general voice of the people. To determine his duty cost him much anxious reflection; but the latter

consideration proved decisive. The decision once made, he acted with his accustomed energy.

His nomination was hailed with satisfaction throughout the Union. Among other letters which he then received, giving expression to this feeling, was one from Mr. Clay. In conclusion he thus expressed himself: "Still, I should have preferred that you were in another situation, where the whole Union would have benefitted by your services."

His opponent was Colonel Mike Hoke. He was born in the same county with Mr. Graham, and was nearly of the same age. He was a gentleman of fine person, of fine address, of considerable Legislative experience, and of high position at the Bar. The canvass was well contested on both sides; on the part of Mr. Graham it was conducted with surpassing ability. When it came to the vote he led his competitor by several thousand majority.

He was inaugurated on the 1st of January, 1845, the oaths of office being administered by Chief Justice Ruffin. The *Raleigh Register* of that date remarks, that "the audience which witnessed the ceremony, for everything that could make the occasion imposing, has never been surpassed within our recollection. The lobbies and galleries were crowded with strangers and citizens, and a brilliant assemblage of ladies."

The Inaugural Address was worthy of the speaker. It is full of lofty thoughts and wise suggestions. It is pervaded throughout by that philosophic tone which belonged to whatever he wrote or spoke. The earlier part contains political reflections of such weight and value, that I would gladly present them if they could be condensed into a less space. In this address, as always, he held up the State as the worthy object of our best affections. His glance at the working of our State government since its organization, was calculated to exalt to the highest degree the popular estimate of the Constitution. Some of the noblest institutions of our State had practically their inception in the recom-

commendations of that Inaugural—as the Asylum for the insane, and the Asylum for the deaf and dumb. Here, too, practically dates the origin of that great measure of scientific progress—the Geological Survey, by which North Carolina stands so enviably distinguished among her sister States immediately around her. He gives just prominence in this address to the Common School System, which then had been just introduced. The University, which always commanded the entire homage of his heart, has its due place here. In the latter half he takes a survey of the State—her physical condition and her needs—and suggests from the resources of political economy, the true principles of her future progress. He dwells, toward the conclusion, with just exultation upon the high character which our people enjoyed for honesty and fidelity. “Thus far,” said he, “our escutcheon is unstained—the public faith has been kept; the public honor inviolate.” History will record that it was always so, while North Carolinians had the control of their State. The last sentence is characteristic of the man; it breathes a devout invocation that our beloved State should not outstrip her sister States in the career of ambition and of glory, but “that she may be permitted to ‘walk in her integrity,’ the object of our loyalty and pride, as she is the home of our hearts and affections.” I have dwelt upon this address because it epitomises the measures, and exhibits the spirit of his administration. It would be impossible to present here any view of the progress of the State during his administration. His first term was so acceptable that he was elected for the second by a largely-increased vote. His two terms embrace that period, during which North Carolina made the greatest progress in all her interests.* The messages of his very able predecessor,

* The Act for the charter of the Institution for the “Deaf, Dumb and Blind” was passed in 1846. In 1848 were passed Acts for the charters of the North Carolina Railroad, the Fayetteville and Western Plank Road, the Slackwater Navigation of the Cape Fear and Deep Rivers, and, prospectively, of the Yadkin, with a portage railroad connected with Deep River. The Legislature also made an appropriation for the erection of a Lunatic Asylum. The Act authorizing a Geological Survey was passed in 1850—the year after the expiration of his term—but the Act was mainly due to the influence exerted by his Inaugural and Messages.

Governor Morehead, followed up by his own, drew the attention of the whole State to the subject of Internal Improvements, and a powerful impulse was given to that great interest. Space would fail me for a separate notice of each of the great interests of the State. To sum up in brief, whatever could tend to her material or intellectual progress was duly fostered and encouraged.

His messages were regarded as among the best State papers of his day. Of this I could cite many proofs; I must content myself with one. In a letter, Mr. Webster writes as follows: "The tone which your Message holds, in regard to the relations between the State Government and the General Government is just, proper, dignified and constitutional, and the views which it presents on questions of internal policy, the development of resources, the improvement of markets, and the gradual advancement of industry and wealth, are such as belong to the age, and are important to our country in all its parts." His earnest recommendation of a Geological Survey elicited from Prof. Olmstead, a letter commending his views expressed in that regard, in which he said: "There is no State in the Union which would better reward the labor and expense of a Geological Survey than North Carolina."

In 1849 he delivered the Address before the Literary Societies at Chapel Hill. His subject was a cursory view of the objects of liberal education. This Address stands out in wide contrast to those which have been customary on such occasions, and is solid, sterling, practical. It is a vindication of the University curriculum. Subjects of highest interest are discussed, and with all due attractions of style. It concludes with brief, but weighty suggestions to the graduating class, calculated to stimulate to high aims in virtue, knowledge and patriotism.

Public honors have been coy to most men; it was the reverse in his case. They waited around him with perpetual solicitations. In 1849, Mr. Mangum, one of the confidential

advisers of the President, wrote to Mr. Graham that he might make his election between the Mission to Russia and the Mission to Spain. Subsequently the Mission to Spain was tendered to, and declined by him.

Upon the accession of Mr. Fillmore to the Presidency, a seat in the Cabinet was tendered to Mr. Graham. In the letter addressed to him by the President, informing him of his appointment, he said: "I trust that you will accept the office, and enter upon the discharge of its duties at the earliest day. I am sure that the appointment will be highly acceptable to the country, as I can assure you, your acceptance will be gratifying to me." In a letter couched in proper terms, dated July 25, he communicated his acceptance.

His first report as Secretary of the Navy is dated the 30th of November, 1850. His diligence, during the two months which had elapsed from the time when he assumed office, is attested by the comprehensive nature of that report. It embraced a review of the whole Naval establishment, accompanied by recommendations, which, in many particulars, went to the extent of a re-organization of the Navy. The recommendations involved, especially, great changes in the *personnel* of the Navy: such as the retirement of officers, promotions on a new system, and other changes equally great, and it is with pleasure we observe the spirit of equity and the sense of delicacy which pervade these recommendations—equity in providing compensation for retiring officers; delicacy in the manner in which the changes are to be carried into effect. The subject matter of this, and subsequent reports, lies beyond the domain of our observation. I therefore subjoin a few testimonials from many at hand, to assist our judgment of this part of his career.

A distinguished Senator of great experience and wide national reputation wrote as follows of his first report: "You had a new field opened to you and well and ably have you occupied every portion of it. The report is to be properly characterized by a bold originality of conception, and

a fearlessness of responsibility, too rare in that class of State papers.

"You have had to grapple with a system built up by a series of abuses, and to use the knife—that fearful and unpopular instrument—somewhat unsparingly.

"If I do not greatly err, it will give you more reputation in the country than anything you have hitherto produced before the public."

In a letter dated the 19th of February, 1851, Mr. Benton wrote as follows: "I have just read a second time, your report on the Coast Survey Subject. I consider it one of the most perfect reports I ever read—a model of a business report, and one which should carry conviction to every candid, inquiring mind. I deem it one of the largest reforms, both in an economical and administrative point of view, which the state of our affairs admits of."

His administration of the Navy Department was signalized by an enterprise, which, for the completeness of the success with which it was crowned, was one of the most remarkable of the age—the Japan expedition. A brief retrospect will assist us to appreciate its difficulties and triumphs. In the year 1637 was consummated a revolution in the Empire of Japan, which resulted in the banishment of the Portugese, the only European people who had free access to that Empire, and who appeared to have firmly fixed themselves there. While the merchants of that nation succeeded in possessing themselves of nearly the whole foreign trade of the country, its missionaries had exerted not less activity in the conversion of the natives to the faith of Rome. The secular rulers, with most of the Princes, had accepted the Christian religion; it was reckoned that, about that period, one-half of the inhabitants were Christians. The new revolution re-established the ancient religion. In the forty years' persecution which succeeded, many millions of lives were sacrificed, and the Christian religion, it was supposed, extinguished there forever.

In consequence of this revolution all trade and intercourse with civilized nations were cut off, except with the Dutch, and as to them, was limited in amount, and circumscribed to one place. This concession, moreover, was purchased by the most abject submission, and was attended with the greatest humiliation. A very limited trade was likewise permitted to China. With these exceptions the Japanese had withdrawn from the world. The settled feeling of the people was one of unmixed hostility to all nations professing the christian religion; the settled policy of the government, one of non-intercourse with such nations, diplomatic or commercial. Within the century preceding that expedition, the English had made many efforts, as had also the Russians since 1792, to establish intercourse with a country abounding with so many objects of desire to civilized man. All of these efforts had failed in turn. In 1846 an attempt to accomplish the same object was made by the United States. A fleet was sent under Commodore Biddle, which came to anchor at Jeddo, in July of that year. It remained ten days, but no one was permitted to land, and nothing was accomplished. In 1849 the Preble, under Commodore Glynn, was sent out to Japan to demand the release of sixteen American sailors who had been wrecked on one of the islands, and who had been detained in prison many months—an imprisonment, the hardship of which was aggravated by great cruelty and inhumanity. After various resorts, intended apparently to test the temper of the Commander and the government which he represented; after various delays, occasioned by the evasive diplomacy of Japanese officials, the prisoners were, at length, delivered up and brought home. The duty of giving adequate protection to American citizens, thus added another motive for opening up intercourse with Japan. In the mind of Mr. Graham the obligation of this duty was supreme. A government which failed to give protection to its citizens on every part of the earth's surface, and among every people was, in his opinion, a government but in name.

He therefore resolved, in which resolution he was strongly supported by the President, to send an expedition to Japan and bring that empire within the pale and comity of civilized nations. The command was assigned to Commodore Perry. The event showed what statesmanlike sagacity was exercised in planning the expedition and in the selection of its leader. Everything that was contemplated was accomplished. The success of that expedition constitutes one of the principal claims of Mr. Filmore's administration to the admiration of the country and of posterity. Its success constitutes, indeed, an era in the history of the world. Its results have been great and cannot but be enduring. It has placed our relations with Japan upon a just and honorable basis. It has given a new direction to much of the commerce of the world—pouring its fertilizing tide through the heart of the American continent. Its effects upon Japan are but beginning to be seen; yet already they exceed what would have been brought about in the ordinary course of affairs in a thousand years. No people have ever availed themselves of the light of a superior civilization as the Japanese have. In that light they have seen the unfitness of many of their old institutions and have abandoned them; they have seen the unfitness of their language for foreign intercourse, and are preparing to substitute the English language. The changes thus made are harbingers of progress which will justify the most lively anticipations for the future. The friends of humanity and religion, especially, hail the prospect with delight. They see in what has been already done, the prospect of an entire change in the institutions of that land. They hope, at no distant day, to see liberal institutions introduced there. They hope to see a universal recognition of popular rights, where the bonds of caste have been so inexorable; to see equal laws take the place of a despot's will, and to see the Christian religion again introduced, never more to be disturbed in its peaceful reign.

Another expedition was sent out in 1851 under the direc-

tion of the Navy Department. The object was the exploration of the Valley of the Amazon in the interests of commerce. The instructions to Lieutenant Herndon—to whose charge the expedition was confided—contained in the letter of Mr. Graham, of February 15th, were full and particular. They embraced the position of the country—the navigability of its streams—its capacities for trade and commerce—and its future prospects. In February, 1854, the report was published by order of Congress. It contains the most ample information upon all the points embraced in the instructions. In the London “Westminster Review” of that year, it was noticed with just credit to the author, and due recognition of the enlightened policy which projected the expedition.

In the year 1850, were passed those great measures of national healing, known as the Compromise Measures. These constituted a part of a series of measures resorted to at short intervals in our history, to give peace to the ever recurring agitation on the subject of slavery. This question had been a disturbing one from the commencement of our national existence. It had presented a formidable barrier to the formation of our federal constitution: this was removed by an adjustment, based upon suffrage. It obtruded itself upon Congress in 1790, in a petition for the abolition of slavery, headed by Dr. Franklin; this was put at rest for a time by a resolution of that body, disclaiming any authority to interfere in the emancipation of slaves, or with their treatment in any of the States. It emerged again in 1820, in a more menacing form than before, startling the country, as Mr. Jefferson expressed it, “like a fire-bell in the night;” it was now quieted by the Missouri compromise—long regarded as a “solemn compact and covenant” upon the basis of a fair division of the public domain between the free and slave States. The question was put at rest for a long time, and it was hoped that the rest was final. It sprung up again in 1846, in connection with the vast territory acquired by the conquest of Mexico, to which it was proposed to apply the

“Wilmot Proviso,” which restricted slavery in any newly acquired territory without regard to the Missouri compromise line. The old settlement being thus repudiated, the country was given up to agitation, in which every turbulent passion seemed let loose. This agitation raged with increasing violence through every session down to the administration of General Taylor and of his successor, Mr. Fillmore. With the progress of the discussion the sessions grew longer and the passions of men more stormy. It was a time of profound anxiety and apprehension. The imminence of the danger brought back Mr. Clay to the Senate; his great co-peers, Mr. Calhoun and Mr. Webster, were already there. To Mr. Clay, more than any other, the eyes of the country were turned at this crisis. He had once before quieted the storm which threatened the country from the same quarter; it was believed that all men would listen to him now. It was believed that the winds and waves of faction would still obey his voice. He was in the fulness of his fame. In abilities he had no superior, in eloquence he had no peer; in patriotism he ranked with the Revolutionary sires. The country did not look to him in vain.

On the 29th of January he brought forward his celebrated measures of conciliation and adjustment. They encountered great opposition. In their progress they were altered in form; but in substance they were finally passed. These measures were approved everywhere, and gave satisfaction to an overwhelming majority of the country.

We, standing amid the wrecks and ruins, in which that agitation finally resulted; taught, alas! by the most mournful of all wisdom, that which comes after the fact accomplished, know that this healing was but a delusion. We know that this slavery question was a cancer, which, though it might heal over and wear the external appearance of health, struck deeper in with each specific, to re-appear with increased virulence. Yet it was for a time a miracle of healing. The measures themselves were eminently wise;

may, the utmost that human wisdom could do. They gave peace to the country--a profound peace of many years. A part of that triumph belongs to North Carolina. Her favorite statesman was then in the cabinet, and shared in the counsels by which these results were brought about. During the progress of these measures he was in constant conference with their author, and to the opinion of none did their author pay greater deference.

His labors as Secretary of the Navy were brought to a sudden termination. The Whig party met in convention on the 16th of June, 1852, and put in nomination for the Presidency General Scott, and for the Vice-Presidency Mr. Graham. Mr. Graham's preference for the Presidency was in favor of Mr. Fillmore, and without a distinct declaration of principles, and an approval of the course of his administration, he would not have permitted his name to be placed on any other ticket. This declaration was made, and in terms as explicit as he could wish; with that declaration, it became a mere calculation of chances which was the candidate the most acceptable to the country. Under these circumstances he accepted the nomination. Immediately on his acceptance, with a view as he expressed it, "to relieve the administration of any possible criticism or embarrassment on his account in the approaching canvass," he tendered his resignation. The President "appreciating the high sense of delicacy and propriety" which prompted this act, accepted his resignation with expressions of "unfeigned regret."

In Mr. Stephen's History of the United States, it is said that in accepting the nomination tendered him by the Whigs, General Scott "cautiously avoided endorsing that portion of the Whig platform which pledged the party to an acceptance of, and acquiescence in the measures of 1850." If avoidance there was, it was because he deemed it unnecessary to pledge his faith to measures with which he was so intimately identified. He was acting Secretary of War during the pendency of these measures. "No one," says Mr.

Graham in a letter to a friend, "more deeply felt the importance of the crisis, or co-operated with us more efficiently in procuring the passage of the Compromise Measure, or rejoiced more heartily in the settlement thereby made." With a soldier's sentiment of honor, General Scott rested on his record, which was open to all the world. But the charge of unfaithfulness to those measures was made against him, and urged with fatal effect. And so it came to pass that the two candidates who had exerted all their abilities, and used all their influence, official and other, to secure the passage of the Compromise Measures, were beaten upon the charge alleged against one of them of unfaithfulness to those measures.

After his retirement from the cabinet, and in the same year—1852—he delivered the sixth lecture in the course, before the Historical Society of New York, in Metropolitan Hall, in the city of New York. "The attendance," we are told in the "Evening Post" of that date, "was exceedingly numerous." Ever anxious to exalt his State, and set her before the world in her true glory, his subject was taken from the history of North Carolina. It was the British invasion of North Carolina in 1780 and '81.

It is known what scant justice has been done to our State by the early historians of the country. This injustice Mr. Graham, as far as a lecture would admit, undertook to redress. Though his subject confined him to the events of less than two years, and took up the story five years after the first blood had been shed at Lexington, and four years after the Declaration of Independence, he presents a rapid and graphic sketch of what was done in North Carolina down to the year 1780. He depicts the advanced state of opinion in North Carolina before the war; he recounts the military expeditions sent out by her in support of the common cause; and shows that "from New York to Florida, inclusive, there were few battle-fields on which a portion of the troops engaged in defense of the liberties of the country were not

hers." He then places before us in strong colors, the period just before Lord Cornwallis commenced his famous march—that period so justly designated as the dark days of the Revolution; when Georgia and South Carolina had been over-run and subjugated; when the army of the South had been nearly annihilated by the disastrous battle of Camden and the catastrophe of Fishing Creek. He relates the bold measures—measures which call to mind those of Rome, at similar crises of peril—with which the State of North Carolina prepared to meet the impending shock. He then enters upon a narrative of the different operations of the American and British armies under their respective commanders, Greene and Cornwallis, and a finer narrative it would be difficult to point out. A bare recital of the incidents of that campaign could not want interest in the hands of the driest historian, but in this narrative it is brought before us in vivid colors. By his brief but striking delineation of the principal actors; by his rapid touches in which the relative state of the Whig and Tory population of that day is brought to view; by his sketches of the scenery of the Piedmont country—the theater of that campaign; by his notices of individual adventure; above all, by his masterly recital of the incidents of the retreat of General Greene and the pursuit of Lord Cornwallis—a retreat in which the hand of Providence seemed from time to time, so visibly interposed—the grand procession of events pass before us with the interest of an acted drama. We experience a feeling of deep relief, when at length, the army of Greene is placed in safety. After taking breath, which we had held as it were, during the quick succession of events in that celebrated retreat, we retrace our steps and the interest culminates in the battle of Guilford. "The philosophy of history," says Mr. Benton in his 'Thirty Year's View,' has not yet laid hold of the battle of Guilford; its consequences and events. That battle made the capture of Yorktown. The events are told in history, the connections and dependence in none." The future his-

torian will find the task done to his hand in this Lecture. Its decisive character is there appreciated and set forth.

In the remainder of the Lecture he glances at the minor invasion of Colonel Craig, and the operations under his command from the valley of the Neuse to the highlands of Chatham, and at the romantic career of the vile but intrepid Fanning. He gives us a sketch of Governor Burke, his capture and escape. He presents a brief view of the expedition of General Rutherford against the British post at Wilmington, who, after many skirmishes, drove and kept the British and Loyalists within the lines of the garrison, until the evacuation of the town, and the retreat of the enemy to Charleston. He sets out the forces sent forth by North Carolina, under General Sumter, which forces formed a conspicuous part of Greene's line at Eutaw, and followed the flag of the Union until the disappearance of the enemy's sails off the Harbor of Charleston.

The Lecture closes with some reflections on the "Act of pardon and Oblivion" passed by the Legislature, after the proclamation of peace, at its first session in 1783. "An Act," says Mr. Graham, "of grace and magnanimity, worthy of the heroic, but Christian and forbearing spirit which had triumphed in the struggle just ended." The words have a peculiar and melancholy significance to us, who recollect how long after the war, he stood among us as an alien and a stranger, deprived of the commonest right of citizenship; and how by mistaken party spirit he was debarred the enjoyment of those Senatorial honors, with which a grateful people would have cheered and crowned the evening of his life.

This Lecture will, I think, be regarded as the maturest of his literary efforts. It presents the events of the time of which it treats in new combinations, and sheds upon them new lights from original investigations. The style is always clear, forcible and harmonious. Classic ornament is introduced to an extent rare for him; for though he retained his

classical learning to the end of his life, his sense of fitness led him to employ very sparingly, what any one might be disposed to attribute to ostentation. Altogether it is the most valuable contribution yet made to the history of North Carolina at that era. It sets the State in a juster light than anything on record. It particularly commends itself to all who cherish in their hearts the sacred flame of State-love and State-pride ; to all who hold in honor the renown of their ancestry ; to all who would catch

“Ennobling impulse from the past.”

Mr. Graham was again a member of the Legislature in 1854-’5. The great question of that session was what was popularly known as “Free Suffrage.” Its object was to abolish the property qualification for the Senate, and extend to every voter the same right of suffrage, whether for the Senate or the House. To this extension of suffrage *per se* he made no objection. He contended, however, that the constitution was based upon carefully adjusted compromises of conflicting interests, and that an amendment of the constitution confined to this single point—as it must necessarily be if carried out by the Legislative method—would disturb those compromises and thus destroy or greatly impair the harmony of that instrument. He, therefore, advocated the calling of a convention, that all the questions embraced in these compromises might be duly considered, and other parts re-adjusted to suit those which might be changed. These views were presented in a speech, memorable for its ability. In the former part he discusses the question at issue, and here will be found some of the finest examples of his skill as a dialectician ; in the latter part he gave an exposition of the subject in all its constitutional bearings—an exposition learned, lucid and conclusive.

The administration of Mr. Buchanan drew to its close amidst signs ominous for the future tranquility of the coun-

try. These signs awakened the fears of all who loved and valued the Union, and the trusted statesmen of the country made arrangements to meet for conference, and to give expression to their views. The Executive Committee of the Constitutional Union party determined early in January, 1860, to issue an address to the people of the United States upon the grave exigencies in national politics. A committee of seven, all men of the highest national distinction, among whom was Mr. Graham, was appointed to prepare the address. Mr. Crittenden notified him of his appointment in a letter of January 24th, and urged his attendance at the meeting of the committee. In his answer, Mr. Graham had left it doubtful whether the pressure of his engagements would permit his attendance, and requested that another might be appointed in his place. Accordingly Governor Morehead was appointed. But Mr. Crittenden wrote again, and to show the importance attached to his judgment and action, I subjoin an extract from his letter: "The crisis is important, and fills the public mind with expectation and anxiety. It is earnestly to be desired that the character of our convention should be conspicuous and equal to the occasion. We have good reason to feel assured of the attendance of many of the most eminent men of the country, and it is by the great weight of the moral and public character of its members that the convention must hope to obtain for its acts or counsels, whatever they may be, respect and influence with the people. We cannot do without your *assistance* and *name*. All the members of the committee, who were present when your letter was read, united in wishing me to write and to urge your coming to the convention. Your absence will be a positive *weight* against us."

A number of eminent statesmen, among whom was Mr. Graham, met in Washington City, in February, to consult together upon the dangers which menaced the country. The result was the convention which nominated the Constitutional Union ticket for the Presidency, in behalf of which he can-

vassed the State. Upon the election of Mr. Lincoln he made public addresses, and exhorted the people to yield due obedience to his office.

But the tempest had long been gathering, and was now ready to burst. No human power could avert it. The people of South Carolina, and of the other States of the far South, had been educated in the doctrine of secession, and there were few in those States who did not hold that doctrine as an undeniable article of political faith. The time was come when this doctrine was to be tested. The election of Mr. Lincoln constituted the cause in the minds of the people of South Carolina. On the 20th of December, 1860, that State held a convention, and declared her connection with the United States dissolved, and proceeded to put herself in an attitude to make good her declaration. In this action she was followed by States to the south of her, and on similar grounds.

The doctrine of secession met with little favor in North Carolina. As a right deduced from the Constitution, and to be exercised under its authority, it was believed by Mr. Graham, and the school of statesmen to which he belonged, to be without foundation. The Legislature of North Carolina directed the question of a convention to be submitted to the people. The question was discussed, in the light of recent events, by the Press of the State, and numerous meetings of the people were held in every part. These meetings were addressed by our ablest men. Amongst these a monster meeting was held at Salisbury, which was addressed by Governor Morehead, Mr. Badger and Mr. Graham, who, as well for the exalted positions they had held as for their commanding abilities, were looked to for counsel in this emergency. The people at the polls pronounced with great unanimity against a convention.

But events were marching on with rapid strides. On the 13th of April, 1861, Sumter surrendered to Confederate guns. On the 15th, Mr. Lincoln issued his call for 75,000 troops.

"This call was made without authority, and was the first of that series of public measures culminating in the unauthorized suspension of the Habeas Corpus Act on the 10th of May, under the shock of which the public liberties of the North for a time went down.

By these events the aspect of things was wholly changed. The question of secession as a right, whether the election of Mr. Lincoln was a just cause for the exercise of the right, had drifted out of sight. War was inevitable. Virginia had followed the example of the Southern States, and North Carolina was now girdled with seceded States. All that was left her was a choice of sides. The language of Mr. Graham at this crisis was the language of all thoughtful men ; nay, it was the language of the human heart. And looking back upon all that we have suffered—and there are none, even in the Northern States, but say we have suffered enough—if a similar conjuncture were to arise, the heart would speak out the same language again. Speaking the voice of the people of North Carolina, as he, from the high trusts confided to him in his past life, and from the confidence always reposed in him, was more than any other commissioned to do, in a public address at Hillsboro, in March, 1861, he expressed himself as follows :

" Ardent in their attachment to the Constitution and the Union, they had condemned separate State secession as rash and precipitate, and wanting in respect to the sister States of identical interests ; and as long as there was hope of an adjustment of sectional differences, they were unwilling to part with the Government, and give success to the movement for its overthrow, which appeared on the part of some, at least, to be but the revelation of a long cherished design. But the President gives to the question new alternatives. These are, on the one hand, to join with him in a war of conquest, for it is nothing less, against our brethren of the seceding States—or, on the other, resistance to and throwing off the obligations of the Federal Constitution. Of the two,

we do not hesitate to accept the latter. Blood is thicker than water. How widely we have differed from, and freely criticized the course taken by these States, they are much more closely united with us, by the ties of kindred, affection, and a peculiar interest, which is denounced and warred upon at the North, without reference to any *locality* in our own section, than to any of the Northern States."

Under the influence of these counsels, so wisely and temperately expressed, a convention of the people of North Carolina was called. On the 20th of May, a day memorable in the annals of the State and of the world, the convention passed the ordinance of secession.

For this ordinance the vote was unanimous. But though the vote indicated an entire unanimity among the members it was unanimity only as to the end to be accomplished. The views of Mr. Graham, and the statesmen with whom he acted, had, in regard to secession as a Constitutional remedy, undergone no change. To set forth their views, Mr. Badger offered a series of resolutions in the nature of a protestation—an exclusion of a conclusion. These resolutions asserted the right of revolution, and based the action of the convention on that ground; but the minds of men had been wrought to such a pitch of excitement that the distinction was unheeded, and the resolutions failed.

On the 20th of June the convention passed the ordinance by which the State of North Carolina became a member of the Confederacy. To this measure Mr. Graham offered a strong but fruitless opposition. In the perilous career upon which we were about to enter he was unwilling to surrender the sovereignty of the State into the hands of those whose rash counsels had, in the judgment of the people of North Carolina, precipitated the war. He wished the State to hold her destinies in her own hands, that she might act as exigencies might require. Those who realize the delusive views under which the government at Richmond acted dur-

ing the last months of the war will see in this opinion another proof of his wise foresight.

The progress of the war which now broke out with such fury demonstrated that there were here, as at the North, those who conceived that the public peril had merged the constitution and the laws. Early in the session "an ordinance to define and punish sedition and to prevent the dangers which may arise from persons disaffected to the State," was introduced.

On the 7th of December Mr. Graham addressed the convention in opposition to this ordinance. The speech which he delivered on this occasion was, perhaps, the noblest effort of his life. It breathes the true spirit of American freedom. It is the product of a mind deeply imbued with the great principles of civil liberty, and which had devoutly meditated upon all those safeguards which the wisdom of successive generations had thrown around it. His wide acquaintance with history had made him familiar with every device by which liberty may be sapped and undermined; his exalted estimate of its value and dignity had developed this acquaintance into a special sense by which he could detect any design hostile to it, under any pretence or subterfuge, however specious or skillful. This special faculty is strikingly exhibited in this speech in tracing and laying bare the dangerous tendencies which everywhere lurked under this ordinance. It abounds with historical illustrations and allusions. It contains passages of graphic eloquence—that, among others, in which he sketches the settlement of the Society of Friends in this State, and with a few touches depicts the genius of that sect. It is pervaded by a warmth and animation unwonted in his speeches, sometimes, indeed, bordering upon enthusiasm. In none of his parliamentary efforts does he seem to have yielded so freely to his native impulses and feelings. It is strictly logical in its structure and advances by regular progression. In its style it is nervous and idomatic, and the thoughts are often expressed with

the highest degree of energy and terseness. Like all great leaders he had the power of clothing popular thoughts in brief, pithy expressions, which at once become current like stamped coin. One such, uttered by him on that occasion, was worth ~~the~~ many speeches: "We are resolved to be independent and free, not only in the *end*, but in the *means*." From the commencement to the conclusion of this speech he moves with equal freedom, grace and power.

From the beginning of the war the current of power set steadily from the Confederate States to the Confederate government; and with each year of the war, the current flowed on with increasing tide. Within its just bounds, no man yielded a heartier allegiance to that government than Mr. Graham; but on the other hand, no man stood ready to oppose a firmer resistance when that government overstepped those bounds. The war had been begun and was then prosecuted for the maintenance of great principles, and it was his fixed purpose that civil liberty should not, at the South as at the North, be engulfed in its progress. In the year 1862 a minister of the gospel—a man of learning and of irreproachable character—was arrested in the county of Orange, under a military order, sent to Richmond and cast into prison. He was not in the military service of the Confederate States, and therefore not amenable to military law. As a proceeding against a citizen, such an arrest, without charge made on oath and without warrant, was in violation of all law; while his deportation beyond the limits of the State, for trial by military tribunal, was in contempt of the dignity and sovereignty of the State. Mr. Graham, being then Senator from Orange, introduced a resolution demanding a return of the prisoner to the State, which was passed at once. On introducing the resolution, he expressed the opinion that the proceeding was without the sanction of the Confederate Executive, or of the Secretary of War. The sequel proved this supposition to be correct; the prisoner was sent back with a disavowal of any knowledge of the

proceeding on the part of the President or the Secretary, until the confinement of the prisoner in the military prison at Richmond. The Secretary frankly admitted the erroneous nature of the arrest and imprisonment, and disclaimed all intention to interfere with the rightful jurisdiction of the State. On the 22d of January, 1863—upon the incoming of the message with the accompanying documents, touching the case—Mr. Graham paid a merited tribute to the enlightened comprehension of the relations existing between the Confederate government and the States, evinced by these sentiments, and in the further remarks submitted by him, he took occasion to re-state the great principles of personal liberty—daily more and more endangered in the course of the war—and to impress them upon the public mind by apt comments upon the case to which the public attention was then so strongly directed. This was the first, and is believed to have been the last case, in which military power was used to override civil law.

In December, 1863, Mr. Graham was elected to the Confederate Senate by a majority of two-thirds of the Legislature. He took his seat in May, 1864. There was then need of the best counsel. The brilliant successes which had crowned our arms in the early years of the war, had been replaced by a succession of disasters. The battle of Gettysburg and the fall of Vicksburg had brought us apparently to the brink of fate. As the year 1864 rolled on, the prospect became darker and darker, and at the end of the year the situation was to the last degree critical. Our territory had been cut in twain, and we were beleaguered by land and by sea. Within the area which acknowledged the Confederate Government, there was great exhaustion of all kinds of military supplies, and a like exhaustion of all the elements for the support of human life. General Lee was only able to oppose the front of General Grant by extending his line until it was ready to snap from excessive tension. To strengthen his force from the white race was impossible ; conscription there

had reached its limit. General Sherman had swept through Georgia, and the broad track of desolation which he left behind him too truly told the story of our helplessness. It was known that each Confederate soldier was opposed by as many as five Federal soldiers; the former scantily fed, clothed and shod; the latter supplied with every comfort and many luxuries.* It was plain there was no longer any hope of a successful prosecution of the war. In the midst of a dense gloom which shrouded the country on every side, a ray of light dawned in the proposed peace conference at Hampton Roads. Mr. Graham had endeavored to reach this form of intercourse from the commencement of the session. He was not without hope of a peaceful termination of hostilities; not so much from his estimate of the statesmanship of President Davis and his Cabinet, as from the extremity of the case which left no other alternative. The conference took place on the 3rd of February, 1865. The terms offered by Mr. Lincoln were, that the seceded States should return to the Union under the Constitution, in the existing state of affairs, with slavery as it was, but liable to be abolished by an amendment to the Constitution. He pledged himself to the utmost exercise of the Executive powers in behalf of the South. The demand of the Commissioners was for independence. There could be no middle ground, and the conference ended. Upon the return of the Commissioners, Mr. Davis and Mr. Benjamin made public speeches in Richmond, to fire the Southern heart anew; but the event proved how little sagacity they brought to the direction of affairs at that supreme hour. The speeches fell still-born.

One principle had actuated Mr. Graham from the beginning of the war; to sustain the Government in its struggles for independence until it should be demonstrated that our

* The odds were exactly seven to one. "The whole number of Confederates surrendered, including Lee's and all, amounted to about 150,000 under arms. The whole number of Federals, then in the field, and afterwards mustered out of service, as the records show, amounted, in round numbers, to 1,050,000." — *Stephens' History of the United States*, p. 463.

resources were inadequate for that end; and when that should be seen and acknowledged, to seek, if possible, a peaceful solution. How well he sustained it is matter of history. He sustained it in every way in which his talents and his means could be made available. He sustained it by his counsels in the State and in the Confederate government. He sustained it by blood more precious in his eyes than his own—all his sons, five in number, who had attained the age of eighteen, entered the army, and were in the army to the end.

The inadequacy of our resources, particularly of the population from which our soldiers were drawn, had now been demonstrated. It was known to Congress; it was admitted by General Lee in his proposition to conscribe slaves; it was proclaimed from the steps of the Capitol by Mr. Benjamin: "Unless the slaves are armed," he said, "the cause is lost." Every expedient had been tried; the extremest measures had been put in operation; "by means of conscription, impressment laws, and the suspension of the *habeas corpus*, the whole population, and all the resources of the country, had long before been placed at the command of the President for prosecution of the war." All had been found unavailing.

One resource, in the opinion of some, remained—the conscription of negroes. A bill for this purpose was introduced into Congress. It was opposed by Mr. Graham upon the ground that it was unconstitutional, as well as inexpedient and dangerous. His sagacious mind saw that this was a measure, not of safety, but a measure born of the wild promptings of despair. On the 21st of February it was indefinitely postponed, though it was subsequently taken up and passed.

If ever negotiation was to be resorted to, it was clear the time had come. We know but little of what passed in the Confederate Congress at that time. Its proceedings were had in secret session; nor is it now known whether the journals of the body escaped destruction. All that we know is derived from what was published by the members after the fall of the Confederate Government. Among these publications is a paper contributed by Mr. Oldham, then Senator from

Texas, to DeBow's Review, in October, 1869, which gives us some information of the proceedings of the Senate at that time. A few days after the conference at Hampton Roads, he informs us, a committee consisting of Messrs. Orr, Graham and Johnson, was appointed to confer with the President, and ascertain what he proposed to do under the existing condition of affairs. In a few days they made a verbal report through Mr. Graham. "Among other things," I quote Mr. Oldham's words, "they stated that they had inquired of the President his views and opinions in regard to proposing to the United States to negotiate for peace upon the basis of the Confederacy returning to the Union, and that he had answered that he had no power to negotiate a treaty upon such a basis ; that his authority to make treaties was derived from the Constitution, which he had sworn to support and that such a treaty would operate as an abrogation of the Constitution, and a dissolution of the government ; that the States alone, each acting for itself, in its sovereign capacity, could make such a treaty. Mr. Graham said, he gave notice that he would, in a few days, introduce a resolution in favor of opening negotiations with the United States upon the basis of a return to the Union by the States of the Confederacy ; that he did not give the notice at the instance or under the instruction of the committee, but upon his own responsibility. The notice was received in such a manner that he never offered his resolution."

I never saw the paper from which the foregoing quotation is made, and was a stranger to this passage of Mr. Graham's life until within the last forty days. I read it with a feeling of profound relief. I have ever regarded him from my earliest years, with the warmest admiration and the most affectionate respect ; but his failure, as I thought, to take some action looking to peace after the Hampton Roads conference—when the plainest dictates of humanity so clearly demanded it—left upon my mind the painful impression that he had been wanting to himself in that, the most im-

portant, crisis of his life. There is a deep-seated conviction that the blood which was shed after that conference might have been saved. That the waste of the fruits of past centuries of toil—a waste which consigned so many of the present and future generations to want and misery—might have been avoided. It is with gratitude I reflect that not a tittle of responsibility for this blood-shed and waste lay at his door. And when the inevitable hour came to him, I doubt not the thought that he had done what he could to arrest a war attended with such terrible and useless sacrifice, was one of the sweetest reflections of his whole life.

The position assumed by President Davis, that he had no authority to make a treaty upon the conditions proposed—since that would amount to an abrogation of the government which he had sworn to support—had, no doubt, a great influence on his mind; but it is clear that it did not express the whole case. If the oath was binding upon him to that extent, it was binding upon Congress to the same extent. Such a construction abnegates one of the highest functions of government, the power of peace and war. It nullifies the treaty making power "*quoad hoc*," and transfers it from the council chamber to the field, from the Cabinet to the General. And if that oath bound him to hold out to the end, unless the Confederate States prevailed, it equally bound General Lee to continue the struggle as long as a company could be brought into the field. A surrender by Gen. Lee was tantamount in all its most dreaded effects, to such a treaty by the President, with none of the beneficent results which might have been secured by treaty. There is no principle upon which a General is justified in surrendering an army to avoid destruction, which does not apply with tenfold force to the surrender of a State to avoid destruction. The State embraces, beside the army, all the helpless population of both sexes, and by so much the case is the stronger.

The difficulties connected with the abrogation of the

Government, especially by those appointed to administer it, are undeniably great; but they cannot be allowed to be conclusive against the interests of human life; such a theory cannot be maintained. If the condition of things be such that the government or the people must be sacrificed, there cannot be a doubt where the sacrifice must fall. All would say that the government was made for the people, not the people for the government.

The strongest reason for the action of Mr. Davis, at that time, action so long an impenetrable mystery, is now made clear from the most authoritative source. In a recent number of the "London Fortnightly Review," is a review, by the first English military critic of the age, of the works of General Johnson and General Sherman, giving the history of their several campaigns. Speaking from information derived from one "who was daily in the Council chamber at Richmond," he says that during the latter stages of the war, Mr. Davis and his Cabinet acted under "thoroughly false views of the military situation." "The Richmond Cabinet was perfectly blinded," says he, "by certain successes of the earlier part of the war; and its military adviser lacked the insight or the honesty to explain to it, that the disproportion of fighting power which had certainly at one time existed, whatever its cause, had passed away." The source from which this information was derived could be no other than a member of the Confederate Cabinet, for none other could have had "daily access to the Council Chamber at Richmond." This information, then, is to be regarded as entirely authentic, and it is fully sustained by the spirit and tenor of the speeches made by Mr. Davis and Mr. Benjamin at the time referred to above, and those made shortly afterward. The writer continues, "it"—the Cabinet at Richmond—"could not realize the facts of the case." With reference to General Sherman and his army, he says: "Sherman's reputation, and the immense strength of the army he commanded, were well known at that era even on this side of

the Atlantic, and ought not to have been ignored at Richmond." Mr. Graham did realize the facts of the case. His letters published in "The last ninety days of the War," show with what clear vision he swept the horizon. Hence his movement looking to negotiations, "to ascertain for the States what terms would be yielded, provided they consented to re-adopt the Constitution of the United States."

Congress adjourned about the 16th day of March. Impressed with the imminence of the emergency, Mr. Graham stopped but one day at home—that day being the Sabbath—and on Monday proceeded to Raleigh to confer with the Governor. The conference was long and earnest. Mr. Graham laid before the Governor the views of the President, the state of the armies, and earnestly recommended that the Legislature should be convened. He sustained his advice by the opinion of General Lee, and that of many good and able men with whom he had been associated. He ended by telling him that Richmond would fall in less than thirty days, and that event would be followed probably by a rout or dispersion of General Lee's army for want of food, if for no other cause. The Governor was surprised by his statement of facts, and incredulous in some degree as to his conclusions. He agreed to consider the subject, and convened the Council on that day week. Hearing nothing of their action, in a few days Mr. Graham visited Raleigh again. The Governor informed him that on the day appointed, a bare quorum of the Council attended, and being equally divided, he had not summoned the Legislature. He said that Mr. Gilmer, with whom Mr. Graham had advised him to consult, had suggested to him to solicit an interview with General Sherman on the subject of peace. Mr. Graham remarked that if such an interview were held, Mr. Davis should be apprised of it. To this the Governor at once assented. Mr. Graham suggested further that if that course were taken, he (the Governor) should be in a condition to act independently of the President, and convene the Legis-

lature. To this proposition the Governor manifested reluctance ; but finally agreed to call the Council of State again. But while negotiation halted, the march of General Sherman's army decided events. In a few days no resource was left but an unconditional surrender. With the part borne by Mr. Graham at that trying time, a gifted authoress of North Carolina has made the public already familiar in the captivating pages of her work : "The Last Ninety Days of the War."

There is no part of Mr. Graham's life in which the calm wisdom, for which he was so distinguished, shone more conspicuously than in the closing months of the civil war. When independence was demonstrated to be hopeless, he sought peace ; but even then, only in channels admitted to be in accordance with the great principles of our Government.

In his opinion, that peace ought to be sought by the State after the failure of the conference at Hampton Roads ; he was sustained by our entire delegation in Congress, and a large proportion of the leading citizens of the State. Yet so anxious was he not only to avoid any appearance of conflict among the Confederate States, but to conform to all that the most punctilious deference for the Confederate Government might require, that he did not move in the matter until after a conference with the President, and then only in the track pointed out by him. The President disclaimed all power of making a treaty, which would abrogate the Government, and declared that the "States alone, each acting in its sovereign capacity, could make such a treaty." In the line of action here indicated the State could not be put in a false position ; nay, her honor would be put beyond all cavil. It was known that we had no power to arrest General Sherman's march. General Johnson confronted him, and all felt convinced that whatever his great military genius could accomplish would be done. But it was also known that his gallant army was outnumbered six to one. A surrender in

a few days would be inevitable. Burning capitols, desolated homes, famine and destruction of life, followed Sherman's march. Was it not worth the effort to put a stop to such frightful calamities? What Mr. Graham urged was that the people might be allowed to determine their fate for themselves. Such a course was in strict conformity to the fundamental principles of our Government. A convention of seven Governors, at Altoona, had precipitated the war when peace counsels seemed so be in the ascendant. Was not Mr. Graham justified in the opinion that executive powers which had been so destructively exerted in the beginning, might be beneficently exerted in the end?

In an address delivered by Governor Vance before the Southern Historical Society, at White Sulphur Springs, West Virginia, August 18th, 1875, occurs the following statement:

"Soon after the failure of the Fortress Monroe or Hampton Roads conference, I was visited by Governor Graham (whose death we so recently deplore) who was then a Senator of the Confederate States. After giving all the particulars of that conference which had not appeared in the papers, and the prevailing impressions of Congressional circles about Richmond, &c., he informed me that a number of leading gentlemen there, despairing of obtaining peace through Mr. Davis, and believing the end inevitable and not distant, had requested him to visit me and urge me, as Governor of North Carolina, to take steps for making separate peace with Mr. Lincoln, and thus inaugurate the conclusion; that he agreed to lay their request before me without promising to add his personal advice thereto. I asked who those gentlemen were, and, with some reluctance, he gave me their names, chiefly Senators and Representatives in the Confederate Congress. I asked why these gentlemen did not begin negotiations in their own States with the enemy, and if they would come out in the papers with this request to me. He said they could not take the initiative,

they were so surrounded at home, and so tranneled by pledges, &c., as to render it impossible ! I declined the proposition of course."

It is with reluctance that I advert to this statement. Had it been given to the press with a sponsor less entitled to consideration, I should have been disposed to let it float with the tide. But it presents itself under imposing circumstances ; it proceeds from one who, at the time referred to, was at the head of the government in North Carolina ; it is contained in an address made before a society whose object it is to preserve the memorials of that time. The statement thus passes into history. It will not be waived. It peremptorily challenges attention.

The address had for its object the vindication of North Carolina, and the vindication was complete upon the facts and figures presented. It was made in reply not to any recent strictures upon the State, but to strictures made during the war. Ten years had elapsed from the end of the war to the date of that address. But the *statement* was made, not in the way of vindication, but in the way of re- crimination, and Mr. Graham's name was used as the instrument of re- crimination. Now it will be regretted by all who love the State, and the fair fame of her statesmen, which forms her highest glory, that such a use of his name was not made till the grave had closed upon him, and his voice was mute forever.

Had this statement been delayed to make avail of facts which came to light afterwards, the cause of the delay would be apparent ; but every fact used in defence of the State was as available at any time during those ten years as it was on the 18th of August when the address was delivered. The effect of that statement was, in the judgment of a large portion of our people, to put Mr. Graham and the Senators and Representatives alluded to, in false relations to the Confederate Government. It excited a deep feeling in this State, and called out acrimonious comments from the Southern

Press. Governor Vance perceived at once the light in which it would be regarded. His language is emphatic, "I declined the proposition of *course*."

There are some reflections which arise, spontaneously, in the mind of every one who reads this statement, and who was acquainted with Mr. Graham.

According to this statement, Mr. Graham came charged with a momentous proposition from parties whose names, at first, he did not disclose. It will be admitted by all that it would be hard to conceive a situation more at variance with the tenor of his life than that in which this statement places him. He was a man of a lofty, fearless and commanding spirit. In action he was one of the most independent of men. He opposed secession when fealty to the South was measured by zeal for that doctrine. He opposed the extreme measures of the Confederate Government when the temper of the times scarcely tolerated any dissent. He opposed the Johnson Constitution; he opposed the Reconstruction Constitution. In the latter instances he brought himself into conflict with those who wielded the powers of the Federal Government, and that too when he was already under the ban of that Government. He had a just sense of his own dignity. He had a just sense of his own weight in the country. His conduct had always been so high and clear that never, during a life of three score years and ten, was he once called upon for an explanation. Not a single lineament of his character do we recognize in the bearer of such a proposition from nameless men.

We are told that, though the bearer of the proposition, he refused or declined to express any opinion in regard to it. This reticence is unaccountable. On public affairs Mr. Graham had no concealments. His opinions as a private man could be known by all who sought them; as a public man he never hesitated to proclaim them. There was no feature of his character which impressed his opponents more than this.

A distinguished Republican,* who knew him well, gave it as one of his most characteristic traits, that "he had eminently the courage of his opinions." Would such a one withhold his opinions when the fate of his country hung in the balance, and when the high position which he occupied made it his duty to express them?

The alleged proposition involved the destruction of the Confederate Government, and the transfer of the allegiance of its citizens to the Federal Government. Could he have so entirely lost that political sagacity, which made him a light and a guide to the generation in which he lived, as to suppose such a proposition would be listened to, coming from nameless men? If such a course had been necessary to escape ruin, otherwise inevitable, it could only have been taken by the concerted action of those who were strongest in the confidence of the country. That, no one knew better than he. Further, he knew that to secure for the proposition a favorable hearing, it must appear that it was a movement which enlisted able and patriotic men. To suppress their names, then, argues a degree of simplicity which would be unaccountable in the weakest of men, and seems impossible in one of the strongest.

Mr. Graham has left on record, in a letter to Governor Swain, a full and minute account of this interview. That it was the same is proven by reference to the time. Governor Vance says it was after the Hampton Roads Conference. Mr. Graham, as we have seen, reached home from Richmond on the 19th of March, and went to Raleigh on Monday the 20th. It is proved to be the same by the identity of topics discussed or referred to, as far as those topics are alluded to by Governor Vance. It is proven by the identity of words, one of them used, not in its plain and obvious, but in its remote and secondary sense.

The letter and the circumstances under which it was written thus become of interest. On Saturday, the 8th of

* Hon. S. F. Phillips.

April, Governor Swain wrote to Mr. Graham urging that he would go with him to Raleigh to confer with Governor Vance upon the state of public affairs. He pictured in strong colors the imminence of the dangers which beset the country. He told him that the State looked to none of its citizens for counsel and guidance as it did to him. He told him the Governor would give as favorable consideration to his suggestions as he would yield to any citizen or functionary in the Confederacy. To this letter Mr. Graham replied on the same day at considerable length. He wrote that he left Richmond thoroughly convinced: 1st. That independence for the Southern Confederacy was perfectly hopeless. 2d. That through the administration of Mr. Davis we could expect no peace. 3rd. That the State Government should make a movement in behalf of peace. He then proceeded to give in detail what had occurred on the occasion of his visit to Governor Vance. This account was written for the purpose of putting Governor Swain in possession of what had passed, no doubt with the expectation that it would be used by him in the interview with Governor Vance, and also to show how frankly he had expressed his views upon the state of the country. On the Monday following, Governor Swain went to Raleigh, and the conference between him and Gov. Vance was long and full. It may, I think, be assumed as certain, from the importance attached by Governor Swain to the opinions of Mr. Graham, and from the weight which he thought those opinions would have with Governor Vance, that the contents of that letter were made known to Governor Vance, and formed the basis of their conference. An account of the interview was furnished by Governor Swain to the author of "The Last Ninety Days," together with the letter in question. The inference is clear that Governor Swain understood that letter as containing a true narrative of what passed between Mr. Graham and Governor Vance. Further, the "Ninety Days" has been for years before the world, and the correctness of that narrative has been un-

challenged. That narrative has thus the direct sanction of Governor Swain, and by acquiescence during Mr. Graham's life, it has the sanction also of Governor Vance.

Now compare the narrative and note the difference. In Governor Vance's version, Mr. Graham comes to him from third persons, whose names were not disclosed; in Mr. Graham's, he went unprompted by anybody; unprompted save by his own high sense of duty. In Governor Vance's version, he came the bearer of a proposition from others; in Mr. Graham's, he went to submit his own views. In Governor Vance's version, the proposition is to "make separate terms with Mr. Lincoln;" in Mr. Graham's, to call the Assembly. In Governor Vance's version, he withholds his advice; in Mr. Graham's, he went for no other purpose than to give his advice, and did give it at length. The only reference in Mr. Graham's narrative to any third person is when he reinforces his advice by the opinion of General Lee, and by the opinions of those considered by him as the wisest and best men with whom he had conversed. It is absolutely certain that what is alleged in the "statement" as having occurred, did not happen before the 20th of March, because, between the Hampton Roads Conference and that time, Mr. Graham had not been in Raleigh. It is morally certain that it did not occur after that time; because if Governor Vance rejected Mr. Graham's advice to call the Legislature, and thus allow the representatives of the people to decide their own fate, the latter would not have submitted a proposition that the Governor should, at the instance of nameless men, decide their fate for them. Whence, then, the irreconcilable discrepancy between the two versions? The explanation lies in the fact that Mr. Graham's narrative was penned a short time after the interview occurred, when the facts were fresh in his mind; while Governor Vance's was not written until over ten years had passed away.

In a note appended to the address, in the November number of *Our Living and Our Dead*, Governor Vance says:

“Since the synopsis of this was published I have received a letter from an esteemed friend in Hillsboro, who says he had a conversation with Governor Graham on the same subject, and that his recollection is that the proposition made to me was, that I should take steps to withdraw the North Carolina troops from General Lee’s army, which would force him to surrender and thus end the war. It may be that my friend’s recollection is correct.”

The inference of the reader of this note would be that the letter from Hillsboro sustains Governor Vance’s recollection in every particular, except the manner in which peace was to be brought about; the writer’s understanding being, that it was to be accomplished by withdrawing our troops. I subjoin the clause of the letter of which the “note” is intended as a summary. The author of the letter, in writing to Governor Vance about the statement in the White Sulphur Springs address, says: “You state that the purpose of persons whose message Governor Graham delivered to you was to make ‘separate terms with Mr. Lincoln, and thus inaugurate the conclusion.’ This announcement surprised me, because Governor Graham stated the same thing to me, and I understood the purpose to be that North Carolina should withdraw her troops from General Lee’s army, and thus compel a surrender and end the war.”

The letter undoubtedly bears the construction put upon it by Governor Vance; nay, I think it is the most obvious construction; yet nothing was further from the intention of the writer. The single point intended to be made by the writer, as is shown in a subsequent letter, was as to “separate terms.” It was to the alleged proposition looking to “separate terms” that he alluded when he wrote, this announcement “surprised me.” Mr. Graham’s position in regard to peace was known to him, and it was to Mr. Graham’s purpose to inaugurate a movement in favor of peace that he alluded when he wrote, “Mr. Graham stated the same thing to me.” The writer of the letter alluded to in

the "note" had no thought either of confirming or controverting Governor Vance's recollection of what transpired at the interview between him and Mr. Graham, because he had not heard from Mr. Graham that he had any interview with Governor Vance. In the subsequent letter, just referred to, he says, "Mr. Graham made no mention"—*i. e.* in the conversation alluded to—"of his having been charged with any message or communication to Governor Vance about ending the war; indeed, he made no mention of his having had any interview with Governor Vance on the subject."

It will be observed that the writer of the letter to Governor Vance, in speaking of withdrawing our troops, says nothing of any communication made by Mr. Graham of such a purpose; his language is "*I understood* the purpose to be;" it was a conclusion of the writer, deduced from what he heard around him.

It is very apparent that this letter was thrown off in great haste, and without a moment's thought as to the construction which might be put upon it. Hence the erroneous implication conveyed, and hence the erroneous construction of Governor Vance.

That letter changed the opinion of Governor Vance, and left him in doubt as to what was the proposition submitted. "It may be," says he, "that my friend's recollection is correct." Upon this point, no doubt, I think, can exist, if we refer to Mr. Graham's recorded opinions. In his letters, given at length in the "Ninety Days," he lays open all his thoughts without reserve to his life-long friend, Governor Swain. In them is to be found no hint of any other measure than that of calling the Legislature and allowing the people to consult together for their common safety in this unparalleled strait. These letters show further that he never contemplated separate action by the State of North Carolina.

After the Hampton Roads Conference he had no longer any hope of a peaceful solution through the action of Presi-

dent Davis; from thenceforth he turned his thoughts to the accomplishment of the same end through the action of the States. The subject is often recurred to, but not an intimation can be found of any plan, except that of the States acting in conjunction. Very soon united action on the part of all became an impossibility; conquering armies had dismembered the Confederacy—had left indeed but two States that could act in concert. But his plan still embraced these two. March 26th, he writes as follows to Governor Swain: “I went to Raleigh to have an interview with the Governor on the subject matter referred to in your letter. The result was a convocation of the Council of State to assemble tomorrow. The Legislature of Virginia has taken a recess until the 29th instant, and I think it very important that that of North Carolina should be in session as early as possible. The war is now nearly reduced to a contest between these two States and the United States!” In his letter of the 8th of April, which contains, as I think has been shown, the true account of the interview between Mr. Graham and Governor Vance, Mr. Graham says: “I told him I should attend the session of the General Assembly, and, if desired, would address them in secret session; that I had confidential conversations with a committee of the Virginia Legislature, which had taken a recess for ten days, and that it was important to act in concert with that body.”

The surrender left the State under the control of the Federal Generals and under the military law. According to the theory of the Administration, all civil government had ceased; all the offices were vacant. The government, for a time, was such as a conquering army administers in a subjugated country. At length to inaugurate a civil government, the precedent for the admission of territories was partially adopted. A provisional Governor was appointed with power to call a convention. In execution of his powers the Governor appointed to the vacant offices and issued a call for a convention. Mr. Graham was nominated for the con-

vention ; but it being announced by the executive, that persons unpardoned would not be allowed to take their seats, he withdrew from the canvass.

A Constitution—the old Constitution with some alterations—was adopted. Mr. Graham opposed its ratification. From his action at this time many of his best friends dissented. They admitted with him that a convention called, not by the people, but by a power *ab extra* and under limitations of suffrage unknown to the constitution, was an anomaly in American institutions. But certain changes were regarded as inevitable after the war, and if the Administration, then wielding supreme power over us, should rest satisfied with the changes thus made, it was conceived by them to be the wiser course to raise no question as to the manner in which the convention was called. But in Mr. Graham's view many of the ablest men in the State concurred, and the constitution was defeated. Certainly it seems more in accordance with the spirit of a great patriot to make continual claim, even if ineffectual, in behalf of the principles of government established by our fathers. Any mitigation which an abandonment of those principles might have obtained would have been but temporary ; the principles themselves were for all time.

The Reconstruction measures were now passed. The former government was swept away. The whole power over the question of suffrage, that question which lies at the foundation of all representative government, and which under the old Constitution belonged to the States, save that Congress might pass uniform naturalization laws, was assumed and exercised by Congress. Suffrage was adjusted upon a new basis ; all the black race was enfranchised, and a large portion of the white race was disfranchised. Under this adjustment, a new convention was called, and a new constitution adopted, the constitution under which we now live.

These measures, so extreme in their nature, were regard-

ed while they were yet in progress by a large part of our people with a feeling little short of consternation. The Government seemed wholly changed; the Constitution irrevocably wrenched, if not destroyed. A profound apathy fell upon the minds of the people. A vast number ceased to take any cognizance of public affairs. They seemed to regard them, as removed forever beyond their control. In this state of things a convention of the conservative party of North Carolina was called. It met on the 5th of February, 1868, in Tucker Hall, in the city of Raleigh, and was presided over by Mr. Graham.

Upon taking the chair he spoke at length upon the state of the country. The scope of that speech is summed up in the conclusion which I give in his own words: "I have detained you thus long, but to be brief and state our case as it is, against the thousand misrepresentations with which the ear of authority is vexed, for the consideration of yourselves, of our own people, of our fellow-citizens of the North and West, and the calm judgment of the world at large." It was thus a broad appeal to the judgment of mankind, embracing in its ample verge all the issues evolved by our situation; and I think whatever may be the party affinities of men at this day all will allow that it was worthy such an audience. He placed himself at the very start upon the highest ground by showing that the struggle in which the party there represented was then engaged, was not the offspring of resentment or contumacy, but only for the preservation of the rights of American citizens. A few strong sentences suffice to paint the condition of the Southern country at the close of the war. He refers in eloquent terms to the civil war, and to the profound submission then, three years after its termination, everywhere manifested to the authority of the United States. He refers to the Reconstruction measures and sharply presents the spirit of those measures. He contrasts the spirit of English statesmanship at the era of the Restoration, an era analogous to our own after the conclu-

sion of the war. He showed that the evils under which we were laboring were the result of political enthusiasm. He dwelt upon the truth impressed by the great historian of the Restoration, the feebleness of reason to oppose this passion, whether in religion or politics, and that there is but one safeguard against its fatal consequences, "in religion, never to lose sight of morality ; in political speculation, never to depart from the forms and maxims of the Constitution." By the forms and maxims of the American Constitution, and by the precedents of our own history at its best eras, and under our Presidents the most renowned in peace and war, he proceeded to test the Reconstruction measures. The framers of those measures admitted that they were "outside of the Constitution." Mr. Graham demonstrated with boundless wealth of learning, and with resistless logic, that they were in conflict with the Constitution and with the spirit of American liberty. There are many who differed in opinion from him upon the topics proper to be discussed, and the course of action recommended by him on that occasion ; but, I think, even they would allow that, as he spoke that day on the great doctrines of civil liberty, so Somers and Camden would have spoken ; and that the constitutional doctrines which he then laid down would have received the sanction of Madison and of Marshall. I have read that speech recently and with care. I was impressed anew with its wide range, and its deep and mature learning ; with the skill with which the topics are arranged and discussed ; with the admirable temper which he preserves on the most exciting subjects ; with his familiarity with the writings of political sages, whose weighty apothegms are scattered through it ; with the high finish of certain passages ; but above all with the dauntless spirit with which he maintains what, in his judgment, are the true principles of our Government.

The effect of this speech cannot be estimated. It aroused the people from their despondency ; it animated them to new efforts ; it went further, it infused into them the spirit with

which the speech itself was instinct. From that day the Conservative-Democratic party dates its existence in this State as a regularly organized party; within a short time thereafter it gained possession of the Legislature and has held it to the present time.

The Convention of 1865 had directed that the Legislature should be convened. An election was accordingly held and the Legislature met in the winter of that year. Mr. Graham was unanimously elected for the county of Orange, but, being unpardoned he did not offer to take his seat. It was the universal desire of the people that he should represent the State in the Senate of the United States, when restored to its old relations. It was felt that North Carolina had no one more competent to vindicate her action or represent her interests. It was felt that she had no one who, by his balanced judgment, his temperance of feeling, his urbane bearing, would do more to mitigate the asperities which had been provoked by civil strife. He was elected by a large majority. Upon his election he repaired to Washington and presented his credentials. They were laid upon the table. He presented to the Senate a manly and respectful memorial; but he was never permitted to take his seat. The spectacle presented by the exclusion from public affairs of a man of his antecedents, while so many who had an active agency in bringing on civil strife had been promoted to high station, arrested attention everywhere. Many of the most eminent men in the Northern States used their best efforts for the removal of his disabilities, without effect. Political persecution, set on foot by parties in his own State, pursued him until it was placed beyond all human probability that he should ever enjoy the honors for which the State had destined him. When that had become a certainty, to-wit, in 1873, his disabilities were removed. What reflections arise, as we recur to this passage of his life! Mr. Graham had clung to the Constitution until the rising tide of secession had flowed around and completely insulated his State: to

this ancient ark of our fathers he again clung when after the war the waves of political enthusiasm inundated the country and the Constitution. Yet he was left stranded, while many of those who had fanned the tempests of both found secure anchorage. But we look beyond to-day. The things seen are temporal in more senses than one. The impartial tribunal of posterity rise up before us. Then, when the actors of to-day are weighed in even scales; when the influence of passion and prejudice is unknown, then will the consistent devotion to principle, by which his conduct was always actuated, receive its due meed of admiration and applause.

The State of North Carolina was, in 1870, the scene of events without parallel in American history. The reconstructed government had then been in existence for two years; and though it introduced many changes in the organic law, changes repugnant to the great body of the people, it was now in quiet operation. Its authority was everywhere acknowledged; submission to it was universal. In the counties of Alamance and Caswell acts of lawlessness, startling and exceptional, had occurred; but they nowhere took the form of resistance to law; they rather indicated the temper of a people driven to phrenzy by actual or anticipated outrage. These acts were deeply deplored by all thoughtful men, who earnestly exerted themselves to put an end to them. At length, by their efforts, seconded by the presence of a company of United States troops in each of those counties, order and quiet were restored. It was now that the Governor, under authority of an act passed at the previous Legislature, declared by proclamation these counties in a state of insurrection. He then proceeded to levy troops, which, when raised, were marched into those counties. Here arrests were made of leading citizens, without charge and without process. When arrested most of them were held in strict confinement; some were thrown into close prison. In some instances torture was resorted to, to extort

accusation against themselves. To crown all, measures were being taken to organize courts-martial for the trial of the citizens thus arrested. To put a stop to proceedings so unexampled recourse was had to that great birthright of English speaking people, the writ of habeas corpus. Application for the writ was made to the Chief Justice, who promptly ordered the writ to be issued; but owing to the action of the Governor the benefit of the writ could not be obtained. A number of motions was submitted by the counsel for the prisoners, but each in turn proved nugatory. Finally a motion was made for a precept to be directed to the Sheriff—the precept to be executed by the power of the county. This the Chief Justice declined to grant, stating that in the then condition of things such a proceeding “would plunge the country into civil war.”

Hopeless now of obtaining any relief from the courts of the State recourse was had to the courts of the United States. A petition for redress was made to His Honor Judge Brooks of the District Court. The question of jurisdiction was argued by Mr. Graham, and other eminent counsel. The Judge, at length, ordered the writ to be issued. The prisoners were brought up, and after the hearing were discharged. It may be safely said that nothing has occurred since the war which did more to rekindle the affections of the people of North Carolina toward the Government of their fathers than the action of Judge Brooks in these cases.

The events thus briefly referred to occurred in the midst of a profound peace. The Courts held their regular sessions at the appointed times in the counties of Alamance and Caswell; and the processes of law ran unobstructed to every part of those counties. Political proscription, there was none. The party of which the Governor was the head held undisputed sway in those counties. The negroes voted at pleasure for the object of their choice. The public mind was profoundly moved by these proceedings. The sense of injury was deep; yet there was no open resistance—no tu-

multuary assemblages. The inborn reverence for law, which has prevailed in this State since the Revolution—since the adoption of popular institutions—everywhere asserted itself. The people waited to see what course two or three eminent citizens, who had been honored and trusted by them, would advise at this crisis. To Mr. Graham first and foremost they instinctively turned. He advised a resort to none but constitutional remedies—first, an appeal to the people at the ballot-box; secondly, an arraignment of the Executive at the bar of the people. The success of such an appeal he did not doubt. No statesman ever reposed greater confidence in the capacity and patriotism of the people. The result vindicated his judgment. The canvass of that summer turned upon the usurpations and high-handed proceedings of the Governor. The election resulted in the return to the Legislature of a majority of two-thirds of the Conservative-Democratic party.

The adoption of the second step was more difficult. A vague but deep-seated dread, growing out of a recent experience of the power of the Federal Government, which had not returned to the old constitutional channels from which it had been diverted by the war, pervaded the State. The Reconstruction Government, which owed its origin to the Federal Congress, had been recently established here. The Republican party had established that government, and that party swayed the powers of the Federal Government in every department. Any action toward removing the highest official in the State might be construed by that party into a menace against the Reconstruction Government, and lead to a speedy and decisive interposition by the Federal Government. Mr. Graham did not participate in these apprehensions. His views are best expressed in his own words: “I do not believe,” he said, “the Congress of the United States will depart from that Constitution under which we are now living in harmony; and that when the State of North Carolina renewed her constitutional relations to the

Federal Government, she came back with all the rights and privileges of a sovereign State ; and that her State Senators and Representatives, when charged with duties by the people, are to perform their functions under the same responsibilities that belong to the Senators and Representatives of any State of the Union." These weighty views, in which there was a general concurrence among the ablest and most trusted public men of the State, prevailed. On the 14th of December, 1870, a resolution was adopted by the House of Representatives of North Carolina, that the Governor of North Carolina be impeached of high crimes and misdemeanors. On the 23d of December the Court of Impeachment was duly organized, and sat forty days. The judgment of the court was that the Governor be deposed from office, and forever disqualified from holding any office of profit or trust in this State.

Mr. Graham was the first counsel named among the eminent gentlemen of the Bar selected to assist the managers appointed by the House ; and he bore a principal part in the management of the trial, and in the discussions of the various questions of evidence which arose in its progress. It was assigned to him to make the first of the speeches in the final argument. In his exordium he used the language quoted above—language which embodied the advice which he had given to the members of the Assembly by whom he had been consulted when the impeachment resolution was pending. The passage which follows, addressed to the Senators sitting in their judicial capacity, evidently lays down the rule by which his own public life had been guided :

"For my own part, I have to say to every public man, in regard to his public life, what the great poet represents the angel as having said to our first ancestor :

"Nor love thy life, nor hate ; but what thou livest
Live well, how long or short permit to heaven?" "

The feelings with which he approached this trial were in

part those of an elder generation. He was born and brought up among a people conspicuous for their gallantry and sacrifices in the Revolutionary War. The section in which they lived was singled out by the British historians as that which was the most active and inveterate in its hostility. His own ancestry in that section had given the best years of their life—had offered their means without limit—had shed their blood on many fields for the assertion of the great principles of liberty. The establishment of a free government was to him the dearly bought acquisition of his patriotic sires, to be transmitted to children's children. The great principles of liberty embodied in the Bill of Rights and in the Constitution were a part of his personal inheritance. Any usurpation of power by the government, any encroachment upon the rights of the people, he regarded as an invasion of his own birth-right—as a personal wrong and grievance.

All such usurpations and encroachments he brought to a standard, just, if severe. Political science had been one of the favorite studies of his life. In the history of government of every kind he was well versed. He regarded a well ordered State as the highest achievement of man. He knew that two thousand years ago man had carried the arts and many branches of science to the highest pitch of perfection. He knew that no free government could boast an existence of more than two hundred years. As well regulated liberty was the latest gift of time, so its value was above all others to be prized. It was that which gave value to everything else ; since upon that the value of everything else depends. A blow in this direction, involving all that men prize and cherish, was to be redressed by the heaviest and most lasting of civil penalties.

The speech of Mr. Graham in this trial was one of very great ability. With the feelings to which I have referred, it might have been anticipated that he would occasionally launch out into denunciation and invective against one who had trodden under foot the Constitution and laws, and defied

the Chief Justice of the State. But amidst the intensity of his feelings his wonted self-command did not for a moment desert him. It was a trial of one who had been charged with the grossest violations of the highest of human rights ; and it was plainly his purpose that no sentence, phrase or word of his should afford ground for the assertion that political animosity or prejudice had aught to do with the judgment which he believed would be pronounced by the high court before which the Executive was arraigned. That judgment should be the irresistible dictate of reason, one in which the feelings should have no share. This occasion admits of no extended analysis of that speech ; but I cannot refrain from saying that, for clear and masterly statement of the several charges embraced in the articles of impeachment : for skillful analysis of the testimony and of the specious pretences urged in defence, which, combined with a dextrous array of facts and authorities, seemed to promise immunity to the accused ; for the force and power with which all these were sifted, exposed and refuted ; above all for the constitutional and common law learning, so apposite, so conclusive, poured forth in the course of that speech, it deserves a high place among the best efforts of that kind. So completely was every point of law and fact covered by Mr. Graham that the eminent counsel who concluded on behalf of the managers confined himself to a re-statement of the positions taken by him, and to such further discussion as was rendered necessary in reply. That speech will not fail to be studied whenever the great principles of government then involved shall come to be again defended here.

As has been said, he was not permitted to take his seat in the Senate of the United States. But while he was debarred the enjoyment of those honors which his State would have conferred upon him, he was the recipient of other honors of the highest kind—honors which the highest in earthly estate might have envied.

Mr. Peabody, whose great heart had been moved by the

misfortunes of the Southern people, conceived the idea of employing some portion of the princely fortune with which Providence had blessed him for the permanent benefit of that people. He was a Northern man by birth, and as such had little sympathy with the ends which the South sought to accomplish by the war. But he knew that our fathers had fought for an idea in the war of independence, and that the South had fought for an idea in the civil war; he could not recognize that as guilt in us, which was a source of pride and boast in our common ancestors. He contemplated no mere eleemosynary institution; a people who had exhibited such constancy and valor as they had displayed during the war—though great suffering among them was inevitable—could not long want aid of that kind. But the interest of education at the South had not kept pace with the same interest at the North, where the people were homogeneous, and where the efforts of all were directed to that end. The apprehension felt—too surely justified by the result—was that when the people of the South came to estimate their losses by the war, the sense of these losses, coupled with their poverty, would lead to still further neglect of that most important interest. It was to the interest of education, then, that the great philanthropist resolved to address his beneficence. His plan required the interposition of trustees, and it was necessary that they should be men eminent for abilities and virtue and of national reputation. Mr. Graham, in whom all these requisites met, was one of the three or four trustees selected from the South. Through a common friend, the Hon. Mr. Winthrop, of Massachusetts, Mr. Graham was invited to meet Mr. Peabody and two or three other gentlemen in Feb., 1867, in the city of Washington. The result is well known. The beneficent plan was put operation, and now yields its valuable fruits to thousands of the children of our land. Mr. Graham entered warmly into Mr. Peabody's views. He attended with great regularity the meetings of the board of trustees, and partici-

pated in all its counsels. He seconded the resolutions which were adopted by the board upon the death of the great philanthropist, and then gave expression in fit and eloquent words to the sense of his loss here felt. The South has no means to commemorate her gratitude to this illustrious man in "statues, storied urns or animated busts," but his benefactions have sunk deep into the hearts of our people, and the honor with which his name is everywhere mentioned among us is, perhaps, the noblest monument to his fame.

Sometime after he received another marked testimonial to the high esteem in which he was held by States as well as individuals. The boundary line between the States of Virginia and Maryland had long been undefined, and had produced embarrassment in the administration of the laws within the disputed limits, and, in some conflicting interests, had nearly led to a collision between citizens of the two States. It was determined to adjust the matter by arbitration. The grand old Commonwealth of Virginia—grander in the virtues which she has displayed in her misfortunes, than those which she exhibited in her prosperity; insomuch that we check the current of compassion for her misfortunes, in the thought that the world will be the better for the example which she has afforded under adversity—confided her interests to Mr. Graham. Some meetings took place between him and the arbitrator selected by the State of Maryland; but no award had been rendered at the date of his death, and the matter was left unadjusted.

In the year 1875—upon the 4th of February—he presided over a meeting held in Charlotte to take steps for the proper celebration of the Centennial of the Mecklenburg Declaration of Independence. Some writers of ability had seized upon that event, and in that spirit of historical skepticism so rife in our days, had undertaken, out of a few minor discrepancies, to deny the genuineness of the Declaration, or that any meeting was held on the 20th of May. Mr. Graham had been often solicited to place that event upon its

proper basis. He had heard it often talked of at his father's fire-side ; he knew all the traditions connected with it ; he had known and talked with many of the subscribers of that Declaration ; he was well acquainted with public opinion regarding it, in that section where the event occurred, down to the date of its publication in 1820. For a long time motives of delicacy, growing out of his connection with some of the principal actors, restrained him. But, at that time, all the actors had passed away ; they could no longer be heard ; and a just regard for their fame urged his acquiescence. He embodied his vindication in the form of an address which he delivered on this occasion. No fair synopsis of that address is possible ; it is a solid, compact argument which would be greatly impaired by any attempt at abridgment. Let it suffice to say that the evidence is arrayed in the spirit of the philosophical historian, and with the skill of a consummate lawyer. It will not put to silence the mere caviller ; no amount of evidence will on this or any other subject ; but the candid inquirer will rise from its perusal with the conviction that few events in history rest upon a firmer foundation than the Mecklenburg Declaration of Independence.

Mr. Graham left behind many literary essays, but none which were prompted by mere desire for literary distinction. His efforts of this kind were all the result of passing events ; all the fruit of hours snatched from an absorbing profession. Yet if collected together they would form a considerable volume ; and if we consider their contents they give a high idea of the intellect which could find its relaxation in such labors. The dominant feeling of his life was loyalty to the State and her institutions ; hence the subjects usually selected by him were drawn from her history.

Among these was a lecture delivered at Greensboro, in 1860. The citizens of that section of country, of which Greensboro is the centre, contemplated the erection of a monument to commemorate the services of General Greene

in the Revolutionary struggle. This lecture was delivered in aid of the enterprise, and embraced a life of Greene and a history of Revolutionary events in this State. A copy was solicited for publication, but from some cause it was never published. It remains in manuscript, full and entire, as if prepared for the press. Here may be mentioned the two Memorial Addresses—the one upon the life and character of Hon. George E. Badger, and the other of Hon. Thomas Ruffin. These fine addresses, which have received the commendations of many of the most competent judges, North and South, are too fresh in the recollection of all to need any comment.

This record would be most imperfect did it fail to bring into the most prominent relief the services of Mr. Graham in his office of trustee of the University. He regarded the University as the best ornament of the State, and no one of all its sons nursed it with a more devoted or wiser care. He attended all its commencements, and was most active in watching over all its interests. No one labored with more zeal for its restoration to the control of the true sons of the State. For many years he was a member of the Executive Committee, and at the time of his death he was the Chairman of that Committee. It was to him, finally, that Governor Swain, in the last years of his successful administration, looked for direction and support in all its trials and embarrassments.

“It is not unusual for men of eminence,” said Judge Story* “after having withdrawn from the Bar to find it difficult, if not not impracticable, to resume their former rank in business.” Mr. Graham experienced no such difficulty. Though often called from his profession to public station, at the first court at which he appeared after his term of office expired, he was retained in all important causes, and busi-

* “Miscellaneous Writings” Sketch of Hon. Samuel Dexter.

ness flowed in upon him thenceforth as if he had never been absent. In common with all the people of the South, his resources had been somewhat impaired by the war, and when civil government was restored he resumed the practice of his profession with more than his wonted ardor. He returned to all the courts of his former circuit; the business of which had greatly increased by the general settlement of all previous transactions which took place after the war. The business of the circuit and district courts—both of which he regularly attended—had been greatly enlarged by the new system of revenue laws and other changes introduced by the war, but, above all, by the bankrupt laws then recently enacted. These with appeals to the Supreme Court of the State, and appeals to the Supreme Court of the United States, increased his labors, protracted his absences from home, and left him few intervals for repose. It was felt by his friends that he was overtaxing his strength by these great exertions, but there was no abatement of his energies until about a year before his death. Symptoms then appeared which inspired deep apprehensions. It seemed but too certain that disease had fixed itself upon some of the great organs of life. He now gave up attendance upon courts, but still watched over the progress of his causes, and labored in the preparation of briefs—the causes themselves being argued by his son, Maj. Graham. He was pre-eminently a worker and he continued to work to the end. At length the symptoms became more distressing, and he repaired to Philadelphia to consult the eminent physicians of that city. The result confirmed the opinion before entertained that his malady was disease of the heart. Upon his return home he continued his labors in his office. It was only under physical exertion that his malady gave him trouble; when in repose he was capable of as great mental efforts as ever.

At this period of comparative inaction that fortunate destiny which presided over his life was constant to him still.

The pain, which was incident to his malady, was only felt at intervals, and then was not severe. Apart from this, there was every possible compensation. Besides the department of professional labor still left to him, he had the boundless resources of literature, ancient and modern, which in the busiest periods of his life he had always cultivated and justly prized. Every day, moreover, brought to him in the visits of friends, or through the mails, in news papers and letters, some new testimonial of esteem and regard, public or private. But above any and all of these, he could now enjoy without interruption those pleasures, in which, amidst his most brilliant successes, he ever found his chief happiness the pleasures of home and its sweet endearments.

Mr. Graham had been nominated by acclamation by the people of Orange for the Constitutional Convention which sat in September, 1875, but the state of his health rendered it impossible for him to undergo the labors of the canvass. This was not needed on his own account, but his absence from the hustings was regretted on account of the Convention cause. He published, however, a strong address to his constituents; which was widely circulated, and had an important influence on the result.

A meeting of the boundary Commissioners had been arranged to take place at Saratoga Springs, in the State of New York, in the month of August, 1875. Thither Mr. Graham accordingly went, accompanied by Mrs. Graham and his youngest son. For many days he appeared to be in his usual health; but a great change was at hand. After an evening spent with his friends, whose society he enjoyed with more than his wonted zest, he retired a little beyond his accustomed hour. Soon after the symptoms of his disease recurred in aggravated form. Physicians were summoned who ministered promptly, but ineffectually. Meantime the news of his situation spread, and messages of inquiry and offers of personal services testified to the general and deep concern. But all that science and the most affec-

tionate solicitude could suggest proved unavailing. He expired at 6 o'clock on the morning of Wednesday, the 11th of August, 1875.

It had long been believed, by those who knew him best, that Mr. Graham was at heart a Christian. It is with inexpressible gratification, I am able to add, that when approached on this subject during the last days of his life, he freely expressed his hope of salvation through our crucified Redeemer.

The intelligence of his death was transmitted by telegraph to every part of the country. All the great journals responded with leading articles expressive of the national bereavement. Numerous meetings were held—meetings of the Bar, meetings of citizens, meetings of political opponents, for political enemies he had none—to give their estimate of the illustrious deceased, and to speak their sense of his loss. The States of Virginia and Maryland, with that high sense of delicacy which marks all their public acts, took care that the remains of one who had stood in such honored relations to each, should be conveyed with due honor across their bounds. At the borders of our State they were received by a committee appointed by the Bar of Raleigh; by a committee appointed by the Mayor and common council of that city, and by a committee from Hillsborough, and conveyed by special train to Raleigh. There they were received by appointed committees—by the Raleigh Light Infantry, by the Raleigh Light Artillery, (of both of which companies he was an honorary member), by the United States troops from Camp Russell, and accompanied by a great concourse of the citizens, conveyed to the capitol. There the remains were deposited in the rotunda, which was draped in mourning for the occasion. Late in the afternoon of the same day they were conveyed with similar ceremonies to the Central Station. From thence, attended by the Raleigh companies, and by special guards of honor, appointed by cities and towns of the State, and by the family of the

deceased, they were conveyed by special train to the station at Hillsborough. From thence they were escorted, with the addition of the whole population of the town, to his mansion, where they lay in state till the noon of Sunday, the 15th. At that hour they were conveyed to the Presbyterian Church, and, after appropriate funeral services, were interred with solemn ceremony, amid an immense concourse, gathered from many counties, in the grave-yard of that church.

The intellect of Mr. Graham was of a rare order. For the business of life, public and private, it may be said to have been perfect. Though in the endowments of genius—taking that word in its extended sense—he assuredly was not wanting; yet, like all who have accomplished much, he trusted little to its unaided impulses and suggestions. Very seldom did he call to his aid the powers of imagination in his speeches or writings. The bent of his genius did not lead him to indulge in vivid painting, glowing imagery or bold contrasts. With this faculty so restrained we would not seek in his speeches for passages of the highest oratorical merit. In them will be found none of those high-wrought appeals, invocations or adjurations in which the orator gives utterance to excited feelings; nothing which would show the man possessed and transported by his theme; nothing of that passion which passes by electric communication from the speaker to the hearer and bears him along by a force that is irresistible. It was in the resources of a clear, capacious and powerful understanding, sustained and enlarged by a special and inborn capability for labor, that he centered his strength. In him was seen, not one possessed by his theme, but one who was master of himself and his theme; not one who would hurry his hearers along despite themselves, but one who by persuasion would lead, and who by argument would convince his audience.* If, then, his hear-

*This was in strict observance of one of the rules enjoined by the severe taste of the Attic orators. "The orator must always show that he was master of him-

ers missed some of those more striking forms of thought in which imagination delights, they were more than compensated by the freer play and wider scope thus given to the powers of reason. In this respect the demands of the judgment were completely satisfied. In truth, for the purposes of the lawyer and the statesman, he was all the better for this abstinent use of a faculty which, while it brightens and adorns, too often misleads—too often presents truth through a colored and false medium. Truth took no color in his mind from false lights, intellectual or moral. It was this constitution of mind, this habitual ward and absolute control over every faculty that could mislead, which, united with a singular equanimity of temper, gave him a power in which he was surpassed by no one; the power of seeing things in their true proportions—of seeing things precisely as they are. It was this moral and mental equilibrium which gave him a judgment which, in the affairs of life, seemed never to err. Hence it was that he was the trusted counsellor of every friend in difficulty; often of the Executive and of the Legislature of the State in cases of doubt and embarrassment; always of the people in every time of political trouble.

The place which will be awarded him in the rank of orators will not be the highest. Indeed at oratorical effects, purely as such, he never aimed. There is no doubt but that he might have employed the resources of oratory, other than the very highest, to a much greater extent than he did. All who have heard him in capital trials, and on other occasions when great interests were at stake, were persuaded that he possessed reserved resources of this kind to which he did not give play, and which he could have called into requisition at will. That he refrained was matter of deliberate judgment. He preferred to address himself to the understand-

self, and never was run away with by the vehemence of the moment."—*Lord Brougham's Dissertation on the Eloquence of the Ancients.*

ing. He relied wholly upon argument, disdaining the adjuncts of mere rhetoric. He knew that the triumphs of reason are more durable than those which are the offspring of excited feeling. Reaction and change follow the latter; the former leave full, permanent conviction.

As a parliamentary speaker and as an advocate he stood in the first rank. His style was that which finds so much favor among eminent English statesmen, that style in which the results of thought and research are given with the warmth and ease of animated and unpremeditated conversation.* In this style of speaking supreme excellence is more difficult to attain than in any other. It demands a perfect mastery of the subject, entire possession of all the faculties of the mind, and a command of language copious, pure and idiomatic. Such speakers address themselves professedly to the judgment. They challenge criticism, and seek no protection from those fervors of feeling which it is the object of the orator to excite. In this style of speaking he was a model.

In addition to his high intellectual endowments, nature had to him been profuse in external gifts. In person he was the ideal of the patrician. His features, regular and classic in their outline, would have satisfied a sculptor. The habitual expression of his face was one of blended thought, refinement and quiet will. His form was noble and commanding; cast, indeed, in nature's finest mould. These advantages were set off by a dress always scrupulously neat, and sufficiently conformed to the prevailing mode to escape observation. The advantages, thus slightly touched upon, were singularly calculated to impress favorably the mind of any audience. If we add that he appeared before every audience with the prestige of a character, which calumny

* Sir James McIntosh remarked, that "the true light in which to consider speaking in the House of Commons was as an animated conversation on public business, and that it was rare for any speech to succeed which was raised on any other basis. Canning joined in this opinion"—*London Quarterly Review*, April, 1858.

itself would own to be without a blemish, the causes of his uniform success are easy to discern.

In his discussions, whether of the Senate or of the Forum no man was ever freer from any of those intellectual artifices to which speakers sometimes resort. He approached his adversary's stronghold by no circuitous lines ; he practiced no feints to draw off attention from his own weak points. Indirection of any kind was foreign to his nature. There were no bold attacks, no sudden onsets. His speeches were always clear, strong, convincing ; on great occasions they resembled a triumphal march—a quiet but imposing display of strength. In intellectual conflicts his self-possession never failed him. If his antagonist, in his assault upon his position, chanced to carry any of his out-works, he referred to it with an easy, careless indifference that impressed all hearers with the idea that his opponent had misdirected his attack and thrown away his strength. The effect of this temporary advantage being thus weakened or destroyed, he threw out some brief, pregnant suggestions, which served to fortify anew the damaged point. At the Bar his case was always presented in its strongest aspect. The leading principles of law were clearly enunciated ; his discussions of them were clear, pointed and full. He then proceeded to support the case from the testimony adduced. In this respect he was unsurpassed. His mind had been subjected to such thorough discipline that it worked with mechanical ease and accuracy. The evidence, however multifarious, fell at once into due order and compact array. His vast acquaintance with the business of life, in every phase, enabled him to see in facts a significance and bearing that would be perceived by few, and to use and apply them in a way at once ingenious, startling and legitimate. His insight into character—originally keen, and so improved by contact with men in every class of life that it had grown into an intuition—was brought to bear with decisive effect in every case of conflicting testimony. In such cases he reasoned upon the

motives of men with almost irresistible force and power.

He cherished the highest idea of the dignity of his profession, and his practice of it was regulated by the most exalted principle. The rule of professional conduct laid down by Lord Brougham, as counsel for Queen Caroline, it will be remembered, was as follows: "An advocate, by the sacred duty which he owes to his client, knows in the discharge of that office but one person in the world, and none other. To save that client by all expedient means—to protect that client at all hazards and cost to all others, and among others to himself—is the highest and most unquestioned of his duties; and he must not regard the alarm, the suffering, the torment, the destruction which he may bring upon any other." This rule he condemned and repudiated. His own conduct was conformed to the principles laid down by Lord Langdale in *Hutchinson vs. Stephens*: "No counsel supposes himself to be the mere advocate or agent of his client to gain a victory, if he can, on a particular occasion. The zeal and arguments of every counsel, knowing what is due to himself and his honorable profession, are qualified not only by considerations affecting his own character as a man of honor, experience and learning, but also by considerations affecting the general interests of justice." Within the domain of the principles here announced, there never lived a counsel who exceeded him in zeal, fidelity and constancy to the interests of his client, or in unflinching hope in his final triumph.

He possessed in many respects the temperament of a great commander. As difficulties thickened around him his courage seemed to rise, and his resources to develop. No man ever fought a losing cause with more courage and constancy. When in important cases the tide of testimony unexpectedly turned and flowed dead against him there was nothing in his look or manner that betrayed the change. His attention would be redoubled, but in all else there was so much of calm composure that lookers-on, inat-

tentive to the evidence, have left the Court House under the impression that he would gain the cause. He preserved, under all circumstances in the trial of causes, the lofty tenor of his bearing. He was never betrayed into an altercation with witnesses. It may be that awe of his character, and a consciousness of his practiced sagacity and penetration constrained witnesses, when in his hands, to an unwonted utterance of the truth. This impression may have been assisted, and probably was, by the fairness and integrity observable in his whole bearing. But whatever the cause, it is certain he never resorted to boisterous tones or a brow-beating manner. Equally removed was his manner from all the arts of cajolery. In his examination of the most refractory witness his mien was calm, his look observant and penetrating, his voice never or but slightly raised above its ordinary tone. In such a contest, the contest between acute, disciplined reason, and cunning or obstinate knavery, the victory was always on the side of the former.

In his moral constitution he was complete on every side. All his conduct in life was regulated not only by the highest sense of honor, but by the most scrupulous sense of duty. This supreme sense of duty in every thing that he did, whether great or small, was his distinguishing characteristic. From his cradle to his grave not a shadow of a shade ever rested upon him. Esteeming a stainless character as the highest of all earthly possessions, he exercised the most scrupulous caution in his judgment of others. Few men were more often in the public arena. He took part in all the political canvasses of his time; in many of which partisan feeling was inflamed to the highest pitch. Yet he never assailed the motives of his opponent and never left any feeling of personal injury rankling in his bosom. He always contended for principle, and disdained to use any argument which reason would not sanction.

In debate he was a model of candor, and whoever might be his opponent he would always accept Mr. Graham's state-

ment of his position. In all his intellectual conflicts, whether at the Bar, on the hustings or in the Senate, under no provocation was he ever excited to an unseemly exhibition of temper. "Although" said a gentleman of high distinction who knew him long and well:* "Although I have been present at the Bar, and upon other public occasions when he must have been greatly tried, I have never seen his countenance degraded by an expression of passion. His look may at times have been stern and high, but at all times it could with advantage have been committed to marble or canvass."

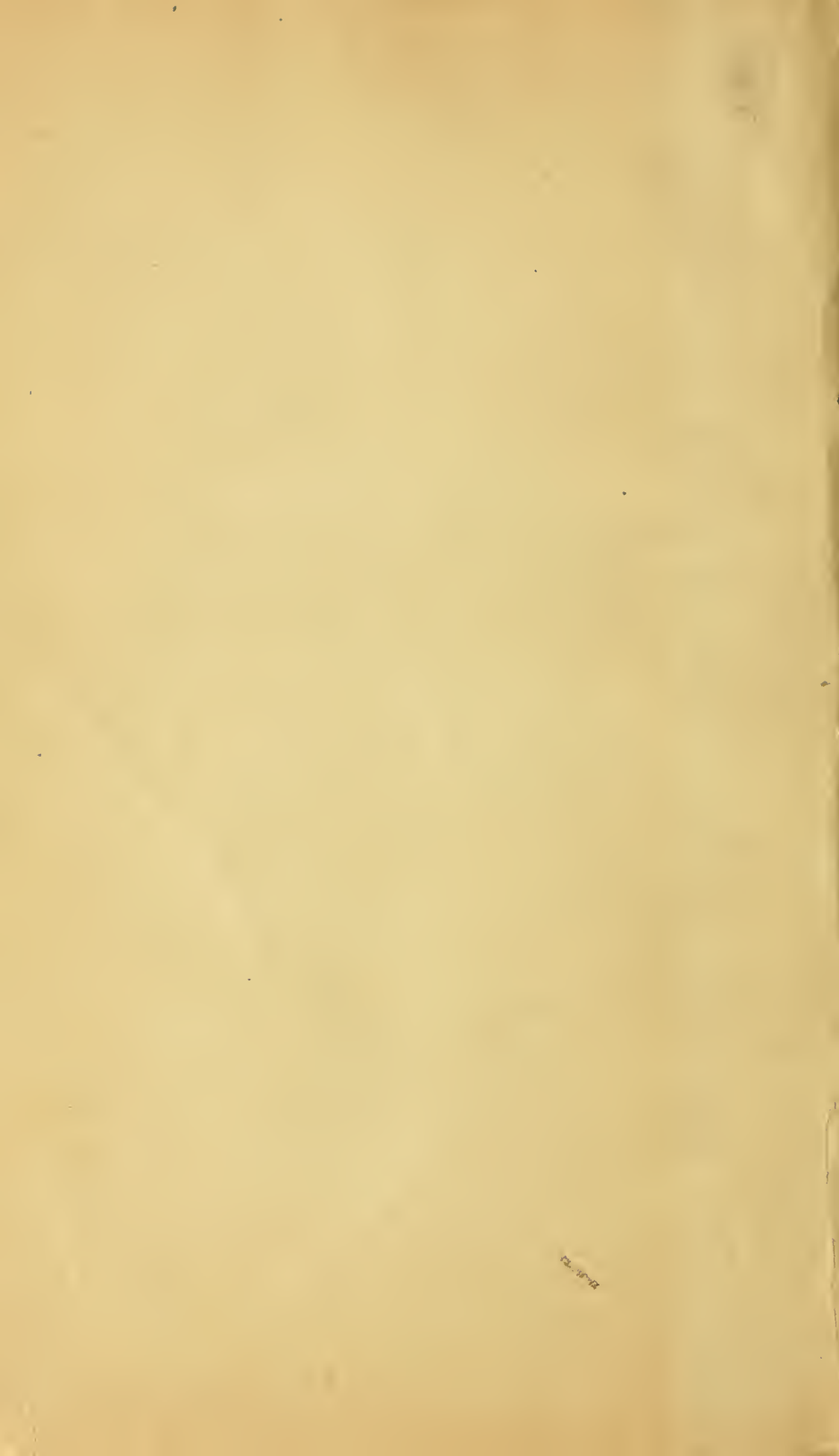
It was the opinion of that eminent lawyer, Archibald Henderson, that public men should mingle much with the people—that there is to be found the true school of common sense. Either because he held the same opinion, but more probably from inclination, his intercourse with the people was constant and cordial. When in attendance on his courts it was his custom when the day was fine to repair, after the adjournment of court, to the portico of his hotel, or the lawn in front of it, and sit for an hour or two. This was often his custom after the evening meal, usually served in his circuit at hours primitively early. Here he became the centre of a group of citizens all of whom he received with courtesy. The talk on such occasions was free and general; and whatever the topic he listened to their views with attention, and in turn frankly gave his own. Thus his information in regard to all matters of general interest was minute and particular. It was thus, too, that he became informed as to the current opinion in regard to public men and public measures. This intimate knowledge of the people was one of the great sources of his strength; it rendered his judgment of the probable fate of State and National questions of great value. His judgment upon such matters, in the counties in which his circuit lay, was almost infallible.

* Hon. S. F. Phillips.

In his social relations Mr. Graham was one of the most attractive of men. Few had so wide a circle of friends, or friends so attached. His manner to all men was urbane ; to his friends cordial and sincere. There was, except to a very few, and at times even to them, a shade of reserve in his manners ; but there was nothing of pride ; nothing expressive of conscious superiority. There was great dignity, tempered by unfailing courtesy. Perhaps this tinge of reserve made his subsequent unbending the more agreeable. In his social hours, in the long winter evenings at court, with the circle gathered around the blazing hearth—it is as he was then seen that his friends love best to recall him. For many years there met together at one of his courts a number of gentlemen of high intellectual gifts and attainments. These were the Hon. Robert Gilliam, the Hon. Abram W. Venable, the present Judge of the 7th circuit and others less known. With such men there was no need that any limitations should be imposed on the conversation. Except in the field of exact science they were very much at home in all. The conversation ranged wide, law, cases in court, history, biography, politics—largely interspersed with anecdotes—formed the topics. But rich as the repast was in all respects, the part which possessed the highest interest was that which was individual to each ; the wit which flashed and faded away ; the humor which played so felicitously in its legitimate sphere ; reminiscences of personal incidents, reminiscences of celebrated persons and events—the latter so invaluable to the historian and biographer. Of the latter kind the contributions made by Mr. Graham were of pre-eminent interest and value, since his theatre of action had been higher and wider. Had those conversations been taken down as they occurred they would have formed a work, which, beside the exquisite charms of wit and humor, for the light which it would have thrown on life and manners, for shrewd observation of character, for striking remarks upon subjects, moral, social and political, would have been surpassed by few in English literature.

I have thus placed before you a brief and imperfect sketch of this illustrious man—how imperfect no one knows better than myself. It is a sketch of one eminently favored of nature in his personal and intellectual gifts; of one upon whom fortune delighted to bestow her choicest favors. He was the recipient of every honor, except those voluntarily declined, which his State could confer. He received high honors from the National Government, and was designated by all but a majority of his countrymen for the place second in rank in that Government. He was one of the few selected out of forty millions of people to carry out the most comprehensive scheme of benevolence that individual philanthropy ever framed for the human race. And when a controversy arose between two great States, second in lustre to none in the Union, it was to his arbitrament, and that of two others, that this quasi-national question was submitted. To few of the sons of men have been allotted so splendid a career. There is enough here, and more than enough, to satisfy the aspirations of the loftiest ambition. But in the contemplation of that life he must be blind indeed who does not see that the moral rises high over the intellectual grandeur. The moral dignity of man never received a higher illustration than in the life before us. We admire the pure Patriot in whose thoughts the State—her weal and her glory—was ever uppermost; the learned Jurist who from his ample stores informed and moulded the laws of his own commonwealth; the eloquent Advocate who stood always ready to redress the wrong, whether of the individual or the community at large; the wise Statesman who swayed the destinies of his State more than any of his generation. But we render the unfeigned homage of the heart to him, who by the majesty of his moral nature, passed pure and unsullied through the wide circle of trials and conflicts embraced in his life; and who, in his death, has left a fame that will be an incentive and a standard to the generous youth of North Carolina through all the ages that are to come.





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